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SENATE BILL 21

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003

INTRODUCED BY

Manny M. Aragon

AN ACT

**RELATING TO PUBLIC FINANCES; PROVIDING ADDITIONAL INCOME TAX
RELIEF FOR HEADS OF HOUSEHOLDS; PROVIDING INCENTIVES FOR
ECONOMIC DEVELOPMENT INITIATIVES AND FOR THE USE OF ALTERNATIVE
FUEL VEHICLES; PROVIDING FOR ADMINISTRATIVE REFORMS; EXPANDING
THE COMPENSATING TAX; PROVIDING FOR LOCAL OPTION COMPENSATING
TAXES; ELIMINATING THE CIGARETTE STAMP DISCOUNT; ADJUSTING
RATES OF THE MOTOR VEHICLE EXCISE TAX, THE LEASED VEHICLE
SURCHARGE, THE OIL AND GAS EMERGENCY SCHOOL TAX, THE SPECIAL
FUEL EXCISE TAX AND THE WEIGHT DISTANCE TAX; ADJUSTING VEHICLE
REGISTRATION FEES; ADJUSTING PERMIT FEES AND REQUIREMENTS FOR
VEHICLES OF EXCESSIVE SIZE AND WEIGHT; CREATING REQUIREMENTS
AND IMPOSING A FEE FOR WEIGHT DISTANCE TAX IDENTIFICATION
PERMITS; MAKING DISTRIBUTIONS; CREATING A FUND; AUTHORIZING
ISSUANCE OF STATE TRANSPORTATION PROJECT BONDS; AUTHORIZING
TRANSPORTATION PROJECTS; AMENDING, REPEALING AND ENACTING**

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1 SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS; DECLARING AN
2 EMERGENCY.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 Section 1. Section 7-1-3 NMSA 1978 (being Laws 1965,
6 Chapter 248, Section 3, as amended) is amended to read:

7 "7-1-3. DEFINITIONS. -- Unless the context clearly
8 indicates a different meaning, the definitions of words and
9 phrases as they are stated in this section are to be used, and
10 whenever in the Tax Administration Act these words and phrases
11 appear, the singular includes the plural and the plural
12 includes the singular:

13 A. "automated clearinghouse transaction" means an
14 electronic credit or debit transmitted through an automated
15 clearinghouse payable to the state treasurer and deposited with
16 the fiscal agent of New Mexico;

17 B. "department" means the taxation and revenue
18 department, the secretary or any employee of the department
19 exercising authority lawfully delegated to that employee by the
20 secretary;

21 C. "electronic payment" means a payment made by
22 automated clearinghouse deposit, any funds wire transfer system
23 or a credit card, debit card or electronic cash transaction
24 through the internet;

25 D. "employee of the department" means any employee

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1 of the department, including the secretary, or any person
2 acting as agent or authorized to represent or perform services
3 for the department in any capacity with respect to any law made
4 subject to administration and enforcement under the provisions
5 of the Tax Administration Act;

6 E. "financial institution" means any state or
7 federally chartered, federally insured depository institution;

8 F. "Internal Revenue Code" means the Internal
9 Revenue Code of 1986, as amended;

10 G. "levy" means the lawful power, hereby invested
11 in the secretary, to take into possession or to require the
12 present or future surrender to the secretary or the secretary's
13 delegate of any property or rights to property belonging to a
14 delinquent taxpayer;

15 H. "local option compensating tax" means a tax
16 authorized to be imposed by a county or municipality upon the
17 taxpayer's use of property, as the term "use" is defined in the
18 Gross Receipts and Compensating Tax Act, and required to be
19 collected by the department at the same time and in the same
20 manner as the compensating tax; "local option compensating tax"
21 includes the compensating taxes imposed pursuant to the
22 Municipal Local Option Gross Receipts Taxes Act, Supplemental
23 Municipal Gross Receipts Tax Act, County Local Option Gross
24 Receipts Taxes Act, Local Hospital Gross Receipts Tax Act,
25 County Correctional Facility Gross Receipts Tax Act and such

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1 other acts as may be enacted authorizing counties or
2 municipalities to impose taxes on use of property, which taxes
3 are to be collected by the department in the same time and in
4 the same manner as it collects the compensating tax;

5 [H-] I. "local option gross receipts tax" means a
6 tax authorized to be imposed by a county or municipality upon
7 the taxpayer's gross receipts, as that term is defined in the
8 Gross Receipts and Compensating Tax Act, and required to be
9 collected by the department at the same time and in the same
10 manner as the gross receipts tax; "local option gross receipts
11 tax" includes the taxes imposed pursuant to the Municipal Local
12 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
13 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,
14 Local Hospital Gross Receipts Tax Act, County Correctional
15 Facility Gross Receipts Tax Act and such other acts as may be
16 enacted authorizing counties or municipalities to impose taxes
17 on gross receipts, which taxes are to be collected by the
18 department in the same time and in the same manner as it
19 collects the gross receipts tax;

20 [H-] J. "managed audit" means a review and analysis
21 conducted by a taxpayer under an agreement with the department
22 to determine the taxpayer's compliance with a tax administered
23 pursuant to the Tax Administration Act and the presentation of
24 the results to the department for assessment of tax found to be
25 due;

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1 ~~[J-]~~ K. "net receipts" means the total amount of
2 money paid by taxpayers to the department in a month pursuant
3 to a tax or tax act less any refunds disbursed in that month
4 with respect to that tax or tax act;

5 ~~[K-]~~ L. "overpayment" means an amount paid,
6 pursuant to any law subject to administration and enforcement
7 under the provisions of the Tax Administration Act, by a person
8 to the department or withheld from the person in excess of tax
9 due from the person to the state at the time of the payment or
10 at the time the amount withheld is credited against tax due;

11 ~~[L-]~~ M. "paid" includes the term "paid over";

12 ~~[M-]~~ N. "pay" includes the term "pay over";

13 ~~[N-]~~ O. "payment" includes the term "payment over";

14 ~~[O-]~~ P. "person" means any individual, estate,
15 trust, receiver, cooperative association, club, corporation,
16 company, firm, partnership, limited liability company, limited
17 liability partnership, joint venture, syndicate, other
18 association or gas, water or electric utility owned or operated
19 by a county or municipality; "person" also means, to the extent
20 permitted by law, a federal, state or other governmental unit
21 or subdivision, or an agency, department or instrumentality
22 thereof; and "person", as used in Sections 7-1-72 through
23 7-1-74 NMSA 1978, also includes an officer or employee of a
24 corporation, a member or employee of a partnership or any
25 individual who, as such, is under a duty to perform any act in

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1 respect of which a violation occurs;

2 [P-] Q. "property" means property or rights to
3 property;

4 [Q-] R. "property or rights to property" means any
5 tangible property, real or personal, or any intangible property
6 of a taxpayer;

7 [R-] S. "secretary" means the secretary of taxation
8 and revenue and, except for purposes of Subsection B of Section
9 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978,
10 also includes the deputy secretary or a division director or
11 deputy division director delegated by the secretary;

12 [S-] T. "secretary or the secretary's delegate"
13 means the secretary or any employee of the department
14 exercising authority lawfully delegated to that employee by the
15 secretary;

16 [T-] U. "security" means money, property or rights
17 to property or a surety bond;

18 [U-] V. "state" means any state of the United
19 States, the District of Columbia, the commonwealth of Puerto
20 Rico and any territory or possession of the United States;

21 [V-] W. "tax" means the total amount of each tax
22 imposed and required to be paid, withheld and paid or collected
23 and paid under provision of any law made subject to
24 administration and enforcement according to the provisions of
25 the Tax Administration Act and, unless the context otherwise

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1 requires, includes the amount of any interest or civil penalty
2 relating thereto; "tax" also means any amount of any abatement
3 of tax made or any credit, rebate or refund paid or credited by
4 the department under any law subject to administration and
5 enforcement under the provisions of the Tax Administration Act
6 to any person contrary to law and includes, unless the context
7 requires otherwise, the amount of any interest or civil penalty
8 relating thereto;

9 [W-] X. "taxpayer" means a person liable for
10 payment of any tax, a person responsible for withholding and
11 payment or for collection and payment of any tax or a person to
12 whom an assessment has been made, if the assessment remains
13 unabated or the amount thereof has not been paid; and

14 [~~X-~~] Y. "tax return preparer" means a person who
15 prepares for others for compensation or who employs one or more
16 persons to prepare for others for compensation any return of
17 income tax, a substantial portion of any return of income tax,
18 any claim for refund with respect to income tax or a
19 substantial portion of any claim for refund with respect to
20 income tax; provided that a person shall not be a "tax return
21 preparer" merely because such person:

22 (1) furnishes typing, reproducing or other
23 mechanical assistance;

24 (2) is an employee who prepares an income tax
25 return or claim for refund with respect to an income tax return

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1 of the employer, or of an officer or employee of the employer,
2 by whom the person is regularly and continuously employed; or

3 (3) prepares as a trustee or other fiduciary
4 an income tax return or claim for refund with respect to income
5 tax for any person. "

6 Section 2. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
7 Chapter 211, Section 15, as amended) is amended to read:

8 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND. --

9 A. A distribution pursuant to Section 7-1-6.1 NMSA
10 1978 shall be made to the state road fund in an amount equal to
11 the net receipts attributable to the taxes, surcharges,
12 penalties and interest imposed pursuant to the Gasoline Tax Act
13 and to the taxes, surtaxes, fees, penalties and interest
14 imposed pursuant to the Special Fuels Supplier Tax Act and the
15 Alternative Fuel Tax Act less:

16 (1) the amount distributed to the state
17 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
18 1978;

19 (2) the amount distributed to the motorboat
20 fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

21 (3) the amount distributed to municipalities
22 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
23 1978;

24 (4) the amount distributed to the county
25 government road fund pursuant to Section 7-1-6.19 NMSA 1978;

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1 (5) the amount distributed to the local
2 governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

3 (6) the amount distributed to the
4 municipalities pursuant to Section 7-1-6.27 NMSA 1978;

5 (7) the amount distributed to the municipal
6 arterial program of the local governments road fund pursuant to
7 Section 7-1-6.28 NMSA 1978; and

8 (8) the amount distributed to a qualified
9 tribe pursuant to a gasoline tax sharing agreement entered into
10 between the secretary of [~~highway and~~] transportation and the
11 qualified tribe pursuant to the provisions of Section
12 67-3-8.1 NMSA 1978.

13 B. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to the state road fund in an amount equal to
15 the net receipts attributable to the taxes, [~~fees~~] interest and
16 penalties from the Weight Distance Tax Act. "

17 Section 3. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
18 Chapter 211, Section 17, as amended) is amended to read:

19 "7-1-6.12. ~~TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION~~
20 ~~GROSS RECEIPTS TAXES--~~ REVENUES FROM LOCAL OPTION COMPENSATING
21 TAXES. --

22 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
23 shall be made to each municipality for which the department is
24 collecting a local option gross receipts tax imposed by that
25 municipality in an amount, subject to any increase or decrease

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1 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
2 receipts attributable to the local option gross receipts tax
3 imposed by that municipality, less any deduction for
4 administrative cost determined and made by the department
5 pursuant to the provisions of the act authorizing imposition by
6 that municipality of the local option gross receipts tax and
7 any additional administrative fee withheld pursuant to
8 Subsection C of Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
9 1978.

10 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
11 shall be made to each municipality for which the department is
12 collecting a local option compensating tax imposed by that
13 municipality in an amount, subject to any increase or decrease
14 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
15 receipts attributable to the local option compensating tax
16 imposed by that municipality."

17 Section 4. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
18 Chapter 211, Section 18, as amended) is amended to read:

19 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
20 GROSS RECEIPTS TAXES--REVENUES FROM LOCAL OPTION COMPENSATING
21 TAXES. --

22 A. Except as provided in Subsection [~~B~~] C of this
23 section, a transfer pursuant to Section 7-1-6.1 NMSA 1978 shall
24 be made to each county for which the department is collecting a
25 local option gross receipts tax imposed by that county in an

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1 amount, subject to any increase or decrease made pursuant to
2 Section 7-1-6.15 NMSA 1978, equal to the net receipts
3 attributable to the local option gross receipts tax imposed by
4 that county, less any deduction for administrative cost
5 determined and made by the department pursuant to the
6 provisions of the act authorizing imposition by that county of
7 the local option gross receipts tax and any additional
8 administrative fee withheld pursuant to Subsection C of Section
9 7-1-6.41 NMSA 1978.

10 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
11 shall be made to each county for which the department is
12 collecting a local option compensating tax imposed by that
13 county in an amount, subject to any increase or decrease made
14 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
15 receipts attributable to the local option compensating tax
16 imposed by that county.

17 ~~[B-]~~ C. In lieu of a distribution pursuant to
18 Subsection A of this section to a class B county with a
19 population, as shown in the last federal decennial census, of
20 more than twenty-five thousand and a net taxable value in the
21 2002 property tax year of less than two hundred million dollars
22 (\$200,000,000), the department shall make a distribution of the
23 following amounts to the largest municipality in that county
24 for the purpose of maintaining and operating a hospital:

25 (1) amounts attributable to the second

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1 one-eighth percent increment of the local option gross receipts
2 tax; and

3 (2) amounts attributable to the special county
4 hospital gross receipts tax. "

5 Section 5. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
6 Chapter 211, Section 20, as amended) is amended to read:

7 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
8 MUNICIPALITIES OR COUNTIES. --

9 A. The provisions of this section apply to:

10 (1) any distribution to a municipality of
11 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
12 of interstate telecommunications gross receipts tax pursuant to
13 Section 7-1-6.36 NMSA 1978;

14 (2) any transfer to a municipality with
15 respect to any local option gross receipts tax or local option
16 compensating tax imposed by that municipality;

17 (3) any transfer to a county with respect to
18 any local option gross receipts tax or local option
19 compensating tax imposed by that county;

20 (4) any distribution to a county pursuant to
21 Section 7-1-6.16 NMSA 1978;

22 (5) any distribution to a municipality or a
23 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

24 (6) any transfer to a county with respect to
25 any tax imposed in accordance with the Local Liquor Excise Tax

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1 Act;

2 (7) any distribution to a municipality or a
3 county of cigarette taxes pursuant to Sections 7-1-6.11,
4 7-12-15 and 7-12-16 NMSA 1978;

5 (8) any distribution to a county from the
6 county government road fund pursuant to Section 7-1-6.26 NMSA
7 1978;

8 (9) any distribution to a municipality of
9 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

10 (10) any distribution to a municipality,
11 county, school district or special district of oil and gas ad
12 valorem production tax reduced as a result of a refund
13 requested in December 1998 with respect to production of carbon
14 dioxide.

15 B. If the secretary determines that any prior
16 distribution or transfer to a political subdivision was
17 erroneous, the secretary shall increase or decrease the next
18 distribution or transfer amount for that political subdivision
19 after the determination, except as provided in Subsection C, D
20 or E of this section, by the amount necessary to correct the
21 error. Subject to the provisions of Subsection E of this
22 section, the secretary shall notify the political subdivision
23 of the amount of each increase or decrease.

24 C. No decrease shall be made to current or future
25 distributions or transfers to a political subdivision for any

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1 excess distribution or transfer made to that political
2 subdivision more than one year prior to the calendar year in
3 which the determination of the secretary was made.

4 D. The secretary, in lieu of recovery from the next
5 distribution or transfer amount, may recover an excess
6 distribution or transfer of one hundred dollars (\$100) or more
7 to the political subdivision in installments from current and
8 future distributions or transfers to that political subdivision
9 pursuant to an agreement with the officials of the political
10 subdivision whenever the amount of the distribution or transfer
11 decrease for the political subdivision exceeds ten percent of
12 the average distribution or transfer amount for that political
13 subdivision for the twelve months preceding the month in which
14 the secretary's determination is made; provided that for the
15 purposes of this subsection, the "average distribution or
16 transfer amount" shall be the arithmetic mean of the
17 distribution or transfer amounts within the twelve months
18 immediately preceding the month in which the determination is
19 made.

20 E. Except for the provisions of this section, if
21 the amount by which a distribution or transfer would be
22 adjusted pursuant to Subsection B of this section is one
23 hundred dollars (\$100) or less, no adjustment or notice need be
24 made.

25 F. The secretary is authorized to decrease a

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1 distribution to a municipality or county upon being directed
2 to do so by the secretary of finance and administration
3 pursuant to the State Aid Intercept Act or to redirect a
4 distribution to the New Mexico finance authority pursuant to
5 an ordinance or a resolution passed by the county or
6 municipality and a written agreement of the municipality or
7 county and the New Mexico finance authority. Upon direction
8 to decrease a distribution or notice to redirect a
9 distribution to a municipality or county, the secretary shall
10 decrease or redirect the next designated distribution, and
11 succeeding distributions as necessary, by the amount of the
12 state distributions intercept authorized by the secretary of
13 finance and administration pursuant to the State Aid
14 Intercept Act or by the amount of the state distribution
15 intercept authorized pursuant to an ordinance or a resolution
16 passed by the county or municipality and a written agreement
17 with the New Mexico finance authority. The secretary shall
18 transfer the state distributions intercept amount to the
19 municipal or county treasurer or other person designated by
20 the secretary of finance and administration or to the New
21 Mexico finance authority pursuant to written agreement to pay
22 the debt service to avoid default on qualified local revenue
23 bonds or meet other local revenue bond, loan or other debt
24 obligations of the municipality or county to the New Mexico
25 finance authority. "

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1 Section 6. A new section of the Tax Administration Act
2 is enacted to read:

3 "[NEW MATERIAL] LOCATION OF USE. --

4 A. For compensating tax and local option
5 compensating tax purposes, use of property occurs in the
6 jurisdiction in which:

7 (1) the buyer's place of business is located
8 if the buyer is engaging in business in New Mexico and uses
9 the property in furtherance of that business;

10 (2) the buyer's principal office is located
11 if the buyer is the state or a local government or an agency
12 or instrumentality of the state or a local government; or

13 (3) the buyer's residence is located if the
14 buyer is not engaging in business in New Mexico or does not
15 use the property in furtherance of business.

16 B. The department shall promulgate regulations to
17 determine where use will be attributed when the buyer has
18 more than one business location or residence in New Mexico. "

19 Section 7. Section 7-1-6.39 NMSA 1978 (being Laws 1995,
20 Chapter 6, Section 9) is amended to read:

21 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
22 LOCAL GOVERNMENTS ROAD FUND. --A distribution pursuant to
23 Section 7-1-6.1 NMSA 1978 shall be made to the local
24 governments road fund in an amount equal to ~~[eleven and~~
25 ~~eleven hundredths percent]~~ the following percentages of the

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1 net receipts attributable to the taxes, exclusive of
2 penalties and interest, from the special fuel excise tax
3 imposed by the Special Fuels Supplier Tax Act:

4 A. until June 30, 2004, eleven and eleven
5 hundredths percent;

6 B. from July 1, 2004 until June 30, 2005, nine
7 and fifty-two hundredths percent;

8 C. from July 1, 2005 until June 30, 2006, nine
9 and nine hundredths percent; and

10 D. from July 1, 2006 and thereafter, eight and
11 seven-tenths percent. "

12 Section 8. A new section of the Tax Administration Act
13 is enacted to read:

14 "[NEW MATERIAL] DISTRIBUTION OF MOTOR VEHICLE EXCISE TAX
15 TO STATE ROAD FUND. --Until June 30, 2006, a distribution
16 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
17 state road fund in an amount equal to twenty-five percent of
18 the net receipts attributable to the motor vehicle excise
19 tax. "

20 Section 9. Section 7-1-17 NMSA 1978 (being Laws 1965,
21 Chapter 248, Section 20, as amended) is amended to read:

22 "7-1-17. ASSESSMENT OF TAX--PRESUMPTION OF
23 CORRECTNESS. --

24 A. If the secretary or the secretary's delegate
25 determines that a taxpayer is liable for taxes in excess of

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1 ~~[ten dollars (\$10.00)]~~ twenty-five dollars (\$25.00) that are
2 due and that have not been previously assessed to the
3 taxpayer, the secretary or the secretary's delegate shall
4 promptly assess the amount thereof to the taxpayer.

5 B. Assessments of tax are effective:

6 (1) when a return of a taxpayer is received
7 by the department showing a liability for taxes; or

8 (2) when a document denominated "notice of
9 assessment of taxes", issued in the name of the secretary, is
10 mailed or delivered in person to the taxpayer against whom
11 the liability for tax is asserted, stating the nature and
12 amount of the taxes assertedly owed by the taxpayer to the
13 state, demanding of the taxpayer the immediate payment of the
14 taxes and briefly informing the taxpayer of the remedies
15 available to the taxpayer [~~or~~

16 ~~(3) when an effective jeopardy assessment is~~
17 ~~made as provided in the Tax Administration Act.~~

18 C. ~~Any assessment of taxes or demand for payment~~
19 ~~made by the department is presumed to be correct.~~

20 D. ~~When taxes have been assessed to any taxpayer~~
21 ~~and remain unpaid, the secretary or the secretary's delegate~~
22 ~~may demand payment at any time except as provided otherwise~~
23 ~~by Section 7-1-19 NMSA 1978]. "~~

24 Section 10. Section 7-1-24 NMSA 1978 (being Laws 1965,
25 Chapter 248, Section 26, as amended) is amended to read:

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1 "7-1-24. ADMINISTRATIVE HEARING--PROCEDURE. --

2 A. Any taxpayer may dispute the assessment to the
3 taxpayer of any amount of tax, the application to the
4 taxpayer of any provision of the Tax Administration Act or
5 the denial of or failure to either allow or deny a claim for
6 refund made in accordance with Section 7-1-26 NMSA 1978 by
7 filing with the secretary a written protest against the
8 assessment or against the application to the taxpayer of the
9 provision or against the denial of or the failure to allow or
10 deny the amount claimed to have been erroneously paid as tax.
11 Every protest shall identify the taxpayer and the tax
12 involved and state the grounds for the taxpayer's protest and
13 the affirmative relief requested. The statement of grounds
14 for protest shall specify individual grounds upon which the
15 protest is based and a summary statement of the evidence
16 expected to be produced supporting each ground asserted, if
17 any; provided that the taxpayer may supplement the statement
18 at any time prior to ten days before any hearing conducted on
19 the protest pursuant to Subsection D of this section or, if a
20 scheduling order has been issued, in accordance with the
21 scheduling order. The secretary may, in appropriate cases,
22 provide for an informal conference before setting a hearing
23 of the protest or acting on any claim for refund.

24 B. Any protest by a taxpayer shall be filed
25 within thirty days of the date of the mailing to the taxpayer

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1 by the department of the notice of assessment or mailing to,
2 or service upon, the taxpayer of other peremptory notice or
3 demand, or the date of mailing or filing a return. Upon
4 written request of the taxpayer made within the time
5 permitted for filing a protest, the secretary may grant an
6 extension of time, not to exceed sixty days, within which to
7 file the protest. If a protest is not filed within the time
8 required for filing a protest or, if an extension has been
9 granted, within the extended time, the secretary may proceed
10 to enforce collection of any tax if the taxpayer is
11 delinquent within the meaning of Section 7-1-16 NMSA 1978.
12 Upon written request of the taxpayer made after the time for
13 filing a protest but not more than sixty days after the
14 expiration of the time for filing a protest, the secretary
15 may grant a retroactive extension of time, not to exceed
16 sixty days, within which to file the protest; provided that
17 the taxpayer demonstrates to the secretary's satisfaction
18 that the taxpayer was not able to file a protest or to
19 request an extension within the time to file the protest and
20 that the grounds for the protest have substantial merit. The
21 fact that the department did not mail the assessment or other
22 peremptory notice or demand by certified or registered mail
23 or otherwise demand and receive acknowledgment of receipt by
24 the taxpayer shall not be deemed to demonstrate the
25 taxpayer's inability to protest or request an extension

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1 within the time for filing a protest within the required
2 time. The secretary shall not grant a retroactive extension
3 if a levy has already been served under Section 7-1-31 or
4 7-1-33 NMSA 1978 or a jeopardy assessment has been made under
5 Section 7-1-59 NMSA 1978. No proceedings other than those to
6 enforce collection of any amount assessed as tax and to
7 protect the interest of the state by injunction, as provided
8 in Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56
9 and 7-1-58 NMSA 1978, are stayed by timely filing of a
10 protest under this section.

11 C. Claims for refund shall be filed as provided
12 for in Section 7-1-26 NMSA 1978.

13 D. Upon timely receipt of a protest, the
14 department or hearing officer shall promptly set a date for
15 hearing and on that date hear the protest or claim.

16 E. A hearing officer shall be designated by the
17 secretary to conduct the hearing. Taxpayers may appear at a
18 hearing for themselves or be represented by a bona fide
19 employee, an attorney, a certified public accountant or a
20 registered public accountant. Hearings shall not be open to
21 the public except upon request of the taxpayer and may be
22 postponed or continued at the discretion of the hearing
23 officer.

24 F. A hearing officer shall not engage or
25 participate in any way as an employee of the department in

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1 the areas of enforcement or formulating general tax policy
2 other than to conduct hearings. A taxpayer may request that
3 the secretary determine whether a hearing officer has engaged
4 or participated in tax policy or enforcement in a way that
5 might reasonably be expected to affect the hearing officer's
6 impartiality in a particular matter. The secretary may
7 designate another hearing officer for the matter to avoid
8 actual or apparent prejudice.

9 G. A hearing officer shall not engage in ex-parte
10 communications concerning the substantive issues of any
11 matter that has been protested while that matter is still
12 pending. If the secretary finds that a hearing officer has
13 engaged in prohibited ex-parte communications, the secretary
14 shall designate another hearing officer for that matter.

15 H. In hearings before the hearing officer, the
16 taxpayer may elect that the Rules of Civil Procedure for the
17 District Courts apply to the proceedings. The secretary
18 shall prescribe by regulation the manner in which an election
19 shall be made. In the absence of such an election, the
20 technical rules of evidence shall not apply, but in ruling on
21 the admissibility of evidence, the hearing officer may
22 require reasonable substantiation of statements or records
23 tendered, the accuracy or truth of which is in reasonable
24 doubt. A taxpayer may request a written ruling on any
25 contested question of evidence in a matter in which the

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1 taxpayer has filed a written protest and that protest is
2 pending.

3 I. In hearings before the hearing officer when
4 the Rules of Civil Procedure for the District Courts [~~shall~~]
5 do not apply, [~~but~~] the hearing shall be conducted so that
6 both complaints and defenses are amply and fairly presented.
7 To this end, the hearing officer shall hear arguments, permit
8 discovery, entertain and dispose of motions, require written
9 expositions of the case as the circumstances justify and
10 render a decision in accordance with the law and the evidence
11 presented and admitted. A taxpayer may request a written
12 ruling on any contested question of procedure in a matter in
13 which the taxpayer has filed a written protest and that
14 protest is pending.

15 J. In the case of the hearing of any protest, the
16 hearing officer shall make and preserve a complete record of
17 the proceedings. At the beginning of the hearing, the
18 hearing officer shall inform the taxpayer of the taxpayer's
19 right to representation. The hearing officer, within thirty
20 days of the hearing, shall inform the protestant in writing
21 of the decision, informing the protestant at the same time of
22 the right to, and the requirements for perfection of, an
23 appeal from the decision to the court of appeals and of the
24 consequences of a failure to appeal. The written decision
25 shall embody an order granting or denying the relief

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1 requested or granting such part thereof as seems appropriate.

2 K. A taxpayer with two or more protests
3 containing related issues may request that such protests be
4 combined and heard jointly. The designated hearing officer
5 shall grant the request to combine protests unless it would
6 create an unreasonable burden on the department.

7 L. Nothing in this section shall be construed to
8 authorize any criminal proceedings hereunder or to authorize
9 an administrative protest of the issuance of a subpoena or
10 summons. "

11 Section 11. Section 7-1-26 NMSA 1978 (being Laws 1965,
12 Chapter 248, Section 28, as amended) is amended to read:

13 "7-1-26. CLAIM FOR REFUND. --

14 A. Any person who believes that an amount of tax
15 has been paid by or withheld from that person in excess of
16 that for which the person was liable, who has been denied any
17 credit or rebate claimed or who claims a prior right to
18 property in the possession of the department pursuant to a
19 levy made under authority of Sections 7-1-31 through 7-1-34
20 NMSA 1978 may claim a refund by directing to the secretary,
21 within the time limited by the provisions of Subsections D, E
22 and F of this section, a written claim for refund. Except as
23 provided in Subsection J of this section, a refund claim
24 shall include the taxpayer's name, address and identification
25 number, the type of tax for which a refund is being claimed,

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1 the sum of money being claimed, the period for which
2 overpayment was made and the basis for the refund. As used
3 in this subsection, "basis for the refund" means a brief
4 statement of the facts and the law on which the claim is
5 based. Upon receipt of a claim for refund of gross receipts
6 tax, compensating tax, personal income tax for years other
7 than the current tax year or corporate income tax for years
8 other than the current tax year, other than a claim described
9 in Subsection J of this section, the department shall
10 promptly send a notice to the person filing the claim stating
11 that it has received the claim and indicating whether it
12 considers the claim to be complete. The department and the
13 person filing the claim may agree to designate the claim as a
14 protective claim.

15 B. The secretary or the secretary's delegate may
16 allow the claim in whole or in part or may deny the claim.

17 (1) If the claim is denied in whole or in
18 part in writing, no claim may be refiled with respect to that
19 which was denied but the person, within ninety days after
20 either the mailing or delivery of the denial of all or any
21 part of the claim, may elect to pursue one, but not more than
22 one, of the remedies in Subsection C of this section.

23 (2) For a claim other than a protective
24 claim, if the department has neither granted nor denied any
25 portion of a claim for refund within one hundred twenty days

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1 of the date the claim was mailed or delivered to the
2 department, the person may refile it within the time limits
3 set forth in Subsection C of this section or may within
4 ninety days elect to pursue one, but only one, of the
5 remedies in Subsection C of this section. After the
6 expiration of the two hundred ten days from the date the
7 claim was mailed or delivered to the department, the
8 department may not approve or disapprove the claim unless the
9 person has pursued one of the remedies under Subsection C of
10 this section.

11 (3) For a protective claim, if the
12 department has not acted within one hundred twenty days from
13 either the date of a final decision in the lead case from
14 which appeal may not be taken or the last date on which
15 appeal may be taken when no appeal is taken, any part of the
16 claim not granted or denied is denied.

17 C. A person may elect to pursue one, but only
18 one, of the remedies in Paragraphs (1) and (2) of this
19 subsection. In any case, if a person does timely pursue more
20 than one remedy, the person shall be deemed to have elected
21 the first remedy invoked. The remedies are as follows:

22 (1) the person may direct to the secretary a
23 written protest against the denial of, or failure to either
24 allow or deny the claim or portion thereof, which shall be
25 set for hearing by a hearing officer designated by the

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1 secretary promptly after the receipt of the protest in
2 accordance with the provisions of Section 7-1-24 NMSA 1978,
3 and pursue the remedies of appeal from decisions adverse to
4 the protestant as provided in Section 7-1-25 NMSA 1978; or

5 (2) the person may commence a civil action
6 in the district court for Santa Fe county by filing a
7 complaint setting forth the circumstance of the claimed
8 overpayment, alleging that on account thereof the state is
9 indebted to the plaintiff in the amount stated, together with
10 any interest allowable, demanding the refund to the plaintiff
11 of that amount and reciting the facts of the claim for
12 refund. The plaintiff or the secretary may appeal from any
13 final decision or order of the district court to the court of
14 appeals.

15 D. Except as otherwise provided in Subsections E
16 and F of this section, no credit or refund of any amount may
17 be allowed or made to any person unless as the result of a
18 claim made by that person as provided in this section:

19 (1) within three years of the end of the
20 calendar year in which:

21 (a) the payment was originally due or
22 the overpayment resulted from an assessment by the department
23 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

24 (b) the final determination of value
25 occurs with respect to any overpayment that resulted from a

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1 disapproval by any agency of the United States or the state
2 of New Mexico or any court of increase in value of a product
3 subject to taxation under the Oil and Gas Severance Tax Act,
4 the Oil and Gas Conservation Tax Act, the Oil and Gas
5 Emergency School Tax Act, the Oil and Gas Ad Valorem
6 Production Tax Act or the Natural Gas Processors Tax Act; or

7 (c) property was levied upon pursuant
8 to the provisions of the Tax Administration Act;

9 (2) when an amount of a claim for credit
10 under the provisions of the Investment Credit Act, Laboratory
11 Partnership with Small Business Tax Credit Act, Technology
12 Jobs Tax Credit Act, Capital Equipment Tax Credit Act or
13 similar act or for the rural job tax credit pursuant to
14 Sections 7-2E-1 and 7-2E-2 NMSA 1978 or similar credit has
15 been denied, the taxpayer may claim a refund of the credit no
16 later than one year after the date of the denial;

17 (3) when a taxpayer under audit by the
18 department has signed a waiver of the limitation on
19 assessments on or after July 1, 1993 pursuant to Subsection F
20 of Section 7-1-18 NMSA 1978, the taxpayer may file a claim
21 for refund of the same tax paid for the same period for which
22 the waiver was given, until a date one year after the later
23 of the date of the mailing of an assessment issued pursuant
24 to the audit, the date of the mailing of final audit findings
25 to the taxpayer or the date a proceeding is begun in court by

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1 the department with respect to the same tax and the same
2 period;

3 (4) if the payment of an amount of tax was
4 not made within three years of the end of the calendar year
5 in which the original due date of the tax or date of the
6 assessment of the department occurred, a claim for refund of
7 that amount of tax can be made within one year of the date on
8 which the tax was paid; or

9 (5) when a taxpayer has been assessed a
10 tax on or after July 1, 1993 under Subsection B, C or D of
11 Section 7-1-18 NMSA 1978 and when the assessment applies to a
12 period ending at least three years prior to the beginning of
13 the year in which the assessment was made, the taxpayer may
14 claim a refund for the same tax for the period of the
15 assessment or for any period following that period within one
16 year of the date of the assessment unless a longer period for
17 claiming a refund is provided in this section.

18 E. No credit or refund shall be allowed or made
19 to any person claiming a refund of gasoline tax under Section
20 7-13-11 NMSA 1978 unless notice of the destruction of the
21 gasoline was given the department within thirty days of the
22 actual destruction and the claim for refund is made within
23 six months of the date of destruction. No credit or refund
24 shall be allowed or made to any person claiming a refund of
25 gasoline tax under Section 7-13-17 NMSA 1978 unless the

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1 refund is claimed within six months of the date of purchase
2 of the gasoline and the gasoline has been used at the time
3 the claim for refund is made.

4 F. If, as a result of an audit by the internal
5 revenue service or the filing of an amended federal return
6 changing a prior election or making any other change for
7 which federal approval is required by the Internal Revenue
8 Code, any adjustment of federal tax is made with the result
9 that there would have been an overpayment of tax if the
10 adjustment to federal tax had been applied to the taxable
11 period to which it relates, claim for credit or refund of
12 only that amount based on the adjustment may be made as
13 provided in this section within one year of the date of the
14 internal revenue service audit adjustment or payment of the
15 federal refund or within the period limited by Subsection D
16 of this section, whichever expires later. Interest computed
17 at the rate specified in Subsection B of Section 7-1-68 NMSA
18 1978 shall be allowed on any such claim for refund from the
19 date one hundred twenty days after the claim is made until
20 the date the final decision to grant the credit or refund is
21 made.

22 G. If as a result of an audit by the department
23 or a managed audit covering multiple periods an overpayment
24 of tax is found in any period under the audit, that
25 overpayment may be credited against an underpayment of the

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1 same tax found in another period under audit pursuant to
2 Section 7-1-29 NMSA 1978, provided that the taxpayer files a
3 claim for refund for the overpayments identified in the audit.

4 H. Any refund of tax paid under any tax or tax
5 act administered under Subsection B of Section 7-1-2 NMSA
6 1978 may be made, at the discretion of the department, in the
7 form of credit against future tax payments if future tax
8 liabilities in an amount at least equal to the credit amount
9 reasonably may be expected to become due.

10 I. For the purposes of this section, the term
11 "oil and gas tax return" means a return reporting tax due
12 with respect to oil, natural gas, liquid hydrocarbons or
13 carbon dioxide pursuant to the Oil and Gas Severance Tax Act,
14 the Oil and Gas Conservation Tax Act, the Oil and Gas
15 Emergency School Tax Act, the Oil and Gas Ad Valorem
16 Production Tax Act, the Natural Gas Processors Tax Act or the
17 Oil and Gas Production Equipment Ad Valorem Tax Act.

18 J. The filing of a fully completed original
19 income tax return, corporate income tax return, corporate
20 income and franchise tax return, estate tax return or special
21 fuel excise tax return that shows a balance due the taxpayer
22 or a fully completed amended income tax return, an amended
23 corporate income tax return, an amended corporate income and
24 franchise tax return, an amended estate tax return, an
25 amended special fuel excise tax return or an amended oil and

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1 gas tax return that shows a lesser tax liability than the
2 original return constitutes the filing of a claim for refund
3 for the difference in tax due shown on the original and
4 amended returns.

5 K. For the purposes of this section:

6 (1) "protective claim" means a claim for
7 refund filed by a person asserting that the person's
8 entitlement to a refund will be established by a final
9 decision of a New Mexico court of competent jurisdiction on a
10 claim for refund or protest previously filed by that person
11 or another; and

12 (2) "lead case" means the previously filed
13 claim or protest described in Paragraph (1) of this
14 subsection.

15 L. Disposition of a protective claim shall be
16 postponed until a final decision is reached in the lead
17 case."

18 Section 12. Section 7-1-67 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 68, as amended) is amended to read:

20 "7-1-67. INTEREST ON DEFICIENCIES. --

21 A. If a tax imposed is not paid on or before the
22 day on which it becomes due, interest shall be paid to the
23 state on that amount from the first day following the day on
24 which the tax becomes due, without regard to any extension of
25 time or installment agreement, until it is paid, except that:

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1 (1) for income tax imposed on a member of
2 the armed services of the United States serving in a combat
3 zone under orders of the president of the United States,
4 interest shall accrue only for the period beginning the day
5 after any applicable extended due date if the tax is not
6 paid;

7 (2) if the amount of interest due at the
8 time payment is made is less than one dollar (\$1.00), then no
9 interest shall be due;

10 (3) if demand is made for payment of a tax,
11 including accrued interest, and if the tax is paid within ten
12 days after the date of the demand, no interest on the amount
13 paid shall be imposed for the period after the date of the
14 demand;

15 (4) if a managed audit is completed by the
16 taxpayer on or before the date required, as provided in the
17 agreement for the managed audit, and payment of any tax found
18 to be due is made in full within thirty days of the date the
19 secretary has mailed or delivered an assessment for the tax
20 to the taxpayer, no interest shall be due on the assessed
21 tax;

22 (5) when, as the result of an audit or a
23 managed audit, an overpayment of a tax is credited against an
24 underpayment of tax pursuant to Section 7-1-29 NMSA 1978,
25 interest shall accrue from the date the tax was due until the

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1 tax is deemed paid;

2 (6) if the department does not issue an
3 assessment for the tax program and period within the time
4 provided in Subsection D of Section 7-1-11.2 NMSA 1978,
5 interest shall be paid from the first day following the day
6 on which the tax becomes due until the tax is paid, excluding
7 the period between either:

8 (a) the one hundred eightieth day
9 after giving a notice of outstanding records or books of
10 account and the date of the assessment of the tax; or

11 (b) the ninetieth day after the
12 expiration of the additional time requested by the taxpayer
13 to comply, if such request was granted, and the date of the
14 assessment of the tax; and

15 (7) if the taxpayer was not provided with
16 proper notices as required in Section 7-1-11.2 NMSA 1978,
17 interest shall be paid from the first day following the day
18 on which the tax becomes due until the tax is paid, excluding
19 the period between one hundred eighty days prior to the date
20 of assessment and the date of assessment.

21 B. Interest due to the state under Subsection A
22 or [D] E of this section shall be:

23 (1) through June 30, 2004, at the rate of
24 fifteen percent a year, computed on a daily basis [~~provided~~
25 ~~that~~];

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1 Section 1 and by Laws 2003, Chapter 439, Section 6) is
2 amended to read:

3 "7-1-68. INTEREST ON OVERPAYMENTS. --

4 A. As provided in this section, interest shall be
5 allowed and paid on the amount of tax overpaid by a person
6 that is subsequently refunded or credited to that person.

7 B. Interest on overpayments of tax shall accrue
8 and be paid:

9 (1) through June 30, 2004, at the rate of
10 fifteen percent a year, computed on a daily basis [~~provided~~
11 ~~that~~];

12 (2) from July 1, 2004 through December 31,
13 2005, at the rate of ten percent a year computed on a daily
14 basis; and

15 (3) on and after January 1, 2006, at the
16 underpayment rate for the period determined in accordance
17 with Section 6621 of the Internal Revenue Code.

18 C. If a different rate than the rate established
19 by Subsection B of this section is specified by a compact or
20 other interstate agreement to which New Mexico is a party,
21 [~~that~~] the rate specified by the compact or other agreement
22 shall apply to amounts due under the compact or other
23 agreement.

24 [~~C.-~~] D. Unless otherwise provided by this
25 section, interest on an overpayment not arising from an

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1 assessment by the department shall be paid from the date of
2 the claim for refund until a date preceding by not more than
3 thirty days the date of the credit or refund to any person;
4 interest on an overpayment arising from an assessment by the
5 department shall be paid from the date of overpayment until a
6 date preceding by not more than thirty days the date of the
7 credit or refund to any person.

8 E. Interest on a refund or credit of tax paid on
9 a deduction initially disallowed by the department for
10 failure to produce a proper nontaxable transaction
11 certificate or not claimed by the taxpayer on a timely filed
12 original return shall be paid from the date on which the
13 taxpayer produces to the department proof that the nontaxable
14 transaction certificate has been obtained.

15 [~~D-~~] F. No interest shall be allowed or paid with
16 respect to an amount credited or refunded if:

17 (1) the amount of interest due is less than
18 one dollar (\$1.00);

19 (2) the credit or refund is made within:

20 (a) fifty-five days of the date of the
21 claim for refund of income tax, pursuant to either the Income
22 Tax Act or the Corporate Income and Franchise Tax Act for the
23 tax year immediately preceding the tax year in which the
24 claim is made; or

25 (b) seventy-five days of the date of

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1 the claim for refund of gasoline tax to users of gasoline off
2 the highways;

3 (3) the credit or refund is made within one
4 hundred twenty days of the date of the claim for refund of
5 income tax, pursuant to the Income Tax Act or the Corporate
6 Income and Franchise Tax Act, for any tax year more than one
7 year prior to the year in which the claim is made;

8 (4) Sections 6611(f) and 6611(g) of the
9 Internal Revenue Code, as those sections may be amended or
10 renumbered, prohibit payment of interest for federal income
11 tax purposes;

12 (5) the credit or refund is made within
13 sixty days of the date of the claim for refund of any tax
14 other than income tax;

15 (6) the credit results from overpayments
16 found in an audit of multiple reporting periods and applied
17 to underpayments found in that audit or refunded as a net
18 overpayment to the taxpayer pursuant to Section 7-1-29 NMSA
19 1978;

20 (7) the department applies the credit or
21 refund to an intercept program, to the taxpayer's estimated
22 payment prior to the due date for the estimated payment, or
23 to offset prior liabilities of the taxpayer pursuant to
24 Subsection E of Section 7-1-29 NMSA 1978; [ø]

25 (8) the credit or refund results from

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1 overpayments the department finds pursuant to Subsection F of
2 Section 7-1-29 NMSA 1978 that exceed the refund claimed by
3 the taxpayer on the return; or

4 (9) the credit or refund is in settlement of
5 a protective claim, as defined in Section 7-1-26 NMSA 1978;
6 provided that interest shall be paid with respect to the
7 period from the date of the final unappealable decision in
8 the lead case until a date preceding by not more than thirty
9 days the date the credit or refund is paid on the protective
10 claim.

11 [~~E-~~] G. Nothing in this section shall be
12 construed to require the payment of interest upon interest."

13 Section 14. Section 7-1-69 NMSA 1978 (being Laws 1965,
14 Chapter 248, Section 70, as amended) is amended to read:

15 "7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A
16 RETURN. --

17 A. Except as provided in Subsection C of this
18 section, in the case of failure due to negligence or
19 disregard of department rules and regulations, but without
20 intent to evade or defeat a tax, to pay when due the amount
21 of tax required to be paid, to pay in accordance with the
22 provisions of Section 7-1-13.1 NMSA 1978 when required to do
23 so or to file by the date required a return regardless of
24 whether a tax is due, there shall be added to the amount
25 assessed a penalty in an amount equal to the greater of:

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1 (1) two percent per month or any fraction of
2 a month from the date the tax was due multiplied by the
3 amount of tax due but not paid, not to exceed ten percent of
4 the tax due but not paid;

5 (2) two percent per month or any fraction of
6 a month from the date the return was required to be filed
7 multiplied by the tax liability established in the late
8 return, not to exceed ten percent of the tax liability
9 established in the late return; or

10 (3) a minimum of [~~five dollars (\$5.00)~~]
11 twenty-five dollars (\$25.00), but the [~~five dollar (\$5.00)~~]
12 minimum penalty shall not apply to taxes levied under the
13 Income Tax Act or taxes administered by the department
14 pursuant to Subsection B of Section 7-1-2 NMSA 1978.

15 B. No penalty shall be assessed against a
16 taxpayer if the failure to pay an amount of tax when due
17 results from a mistake of law made in good faith and on
18 reasonable grounds.

19 C. If a different penalty is specified in a
20 compact or other interstate agreement to which New Mexico is
21 a party, the penalty provided in the compact or other
22 interstate agreement shall be applied to amounts due under
23 the compact or other interstate agreement at the rate and in
24 the manner prescribed by the compact or other interstate
25 agreement.

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1 D. In the case of failure, with willful intent to
2 evade or defeat a tax, to pay when due the amount of tax
3 required to be paid, there shall be added to the amount fifty
4 percent of the tax or a minimum of twenty-five dollars
5 (\$25.00), whichever is greater, as penalty.

6 E. If demand is made for payment of a tax,
7 including penalty imposed pursuant to this section, and if
8 the tax is paid within ten days after the date of such
9 demand, no penalty shall be imposed for the period after the
10 date of the demand with respect to the amount paid.

11 F. If a taxpayer makes electronic payment of a
12 tax but the payment does not include all of the information
13 required by the department pursuant to the provisions of
14 Section 7-1-13.1 NMSA 1978 and if the department does not
15 receive the required information within five business days
16 from the later of the date a request by the department for
17 that information is received by the taxpayer or the due date,
18 the taxpayer shall be subject to a penalty of two percent per
19 month or any fraction of a month from the fifth day following
20 the date the request is received. If a penalty is imposed
21 under Subsection A of this section with respect to the same
22 transaction for the same period, no penalty shall be imposed
23 under this subsection.

24 G. No penalty shall be imposed on:

25 (1) tax due in excess of tax paid in

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1 accordance with an approved estimated basis pursuant to
2 Section 7-1-10 NMSA 1978;

3 (2) tax due as the result of a managed
4 audit; or

5 (3) tax that is deemed paid by crediting
6 overpayments found in an audit or managed audit of multiple
7 periods pursuant to Section 7-1-29 NMSA 1978. "

8 Section 15. Section 7-2-7 NMSA 1978 (being Laws 2003,
9 Chapter 2, Section 3), which is to become effective January
10 1, 2004, is amended to read:

11 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed
12 by Section 7-2-3 NMSA 1978 shall be at the following rates
13 for any taxable year beginning in 2004:

14 A. For married individuals filing separate
15 returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000	\$ 384 plus 6.0% of excess over \$ 12,000
Over \$ 20,000	\$ 864 plus 6.8% of excess over \$ 20,000.

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1 B. For heads of household, surviving spouses and
2 married individuals filing joint returns:

3 If the taxable income is:	The tax shall be:
4 Not over \$8,000	1.7% of taxable income
5 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
6	excess over \$ 8,000
7 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
8	excess over \$ 16,000
9 Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of
10	excess over \$ 24,000
11 Over \$ 40,000	\$ 1,728 plus 6.8% of
12	excess over \$ 40,000.

13 C. For single individuals and for estates and
14 trusts:

15 If the taxable income is:	The tax shall be:
16 Not over \$5,500	1.7% of taxable income
17 Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
18	excess over \$ 5,500
19 Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
20	excess over \$ 11,000
21 Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of
22	excess over \$ 16,000
23 Over \$ 26,000	\$1,104.50 plus 6.8% of
24	excess over \$ 26,000.

25 ~~[D. For heads of household filing returns:~~

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1 ~~----- If the taxable income is:----- The tax shall be:~~
2 ~~Not over \$7,000----- 1.7% of taxable income~~
3 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~
4 ~~----- excess over \$ 7,000~~
5 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
6 ~~----- excess over \$ 14,000~~
7 ~~Over \$ 20,000 but not over \$ 33,000 \$ 625 plus 6.0% of~~
8 ~~----- excess over \$ 20,000~~
9 ~~Over \$ 33,000----- \$1,405 plus 6.8% of~~
10 ~~----- excess over \$ 33,000.~~

11 E.] D. The tax on the sum of any lump-sum amounts
12 included in net income is an amount equal to five multiplied
13 by the difference between:

14 (1) the amount of tax due on the taxpayer's
15 taxable income; and

16 (2) the amount of tax that would be due on
17 an amount equal to the taxpayer's taxable income and twenty
18 percent of the taxpayer's lump-sum amounts included in net
19 income. "

20 Section 16. Section 7-2-7 NMSA 1978 (being Laws 2003,
21 Chapter 2, Section 4), which is to become effective January
22 1, 2005, is amended to read:

23 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed
24 by Section 7-2-3 NMSA 1978 shall be at the following rates
25 for any taxable year beginning in 2005:

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1 A. For married individuals filing separate
2 returns:

3 If the taxable income is:	The tax shall be:
4 Not over \$4,000	1.7% of taxable income
5 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
6	excess over \$ 4,000
7 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
8	excess over \$ 8,000
9 Over \$ 12,000	\$ 384 plus 6.0% of
10	excess over \$ 12,000.

11 B. For heads of household, surviving spouses and
12 married individuals filing joint returns:

13 If the taxable income is:	The tax shall be:
14 Not over \$8,000	1.7% of taxable income
15 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
16	excess over \$ 8,000
17 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
18	excess over \$ 16,000
19 Over \$ 24,000	\$ 768 plus 6.0% of
20	excess over \$ 24,000.

21 C. For single individuals and for estates and
22 trusts:

23 If the taxable income is:	The tax shall be:
24 Not over \$5,500	1.7% of taxable income
25 Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of

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1 excess over \$ 5,500
2 Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of
3 excess over \$ 11,000
4 Over \$ 16,000 \$ 504.50 plus 6.0% of
5 excess over \$ 16,000.

6 ~~[D. For heads of household filing returns:~~

7 ~~----- If the taxable income is: ----- The tax shall be:~~
8 ~~Not over \$7,000 ----- 1.7% of taxable income~~
9 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~
10 ~~----- excess over \$ 7,000~~
11 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
12 ~~----- excess over \$ 14,000~~
13 ~~Over \$ 20,000 ----- \$ 625 plus 6.0% of~~
14 ~~----- excess over \$ 20,000.~~

15 E.] D. The tax on the sum of any lump-sum amounts
16 included in net income is an amount equal to five multiplied
17 by the difference between:

18 (1) the amount of tax due on the taxpayer's
19 taxable income; and

20 (2) the amount of tax that would be due on
21 an amount equal to the taxpayer's taxable income and twenty
22 percent of the taxpayer's lump-sum amounts included in net
23 income. "

24 Section 17. Section 7-2-7 NMSA 1978 (being Laws 2003,
25 Chapter 2, Section 5), which is to become effective January

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1 1, 2006, is amended to read:

2 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed
3 by Section 7-2-3 NMSA 1978 shall be at the following rates
4 for any taxable year beginning in 2006:

5 A. For married individuals filing separate
6 returns:

7 If the taxable income is:	The tax shall be:
8 Not over \$4,000	1.7% of taxable income
9 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of 10 excess over \$ 4,000
11 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of 12 excess over \$ 8,000
13 Over \$ 12,000	\$ 384 plus 5.3% of 14 excess over \$ 12,000.

15 B. For heads of household, surviving spouses and
16 married individuals filing joint returns:

17 If the taxable income is:	The tax shall be:
18 Not over \$8,000	1.7% of taxable income
19 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of 20 excess over \$ 8,000
21 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of 22 excess over \$ 16,000
23 Over \$ 24,000	\$ 768 plus 5.3% of 24 excess over \$ 24,000.

25 C. For single individuals and for estates and

underscored material = new
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1 trusts:

2	If the taxable income is:	The tax shall be:
3	Not over \$5,500	1.7% of taxable income
4	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
5		excess over \$ 5,500
6	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
7		excess over \$ 11,000
8	Over \$ 16,000	\$ 504.50 plus 5.3% of
9		excess over \$ 16,000.

10 ~~[D. For heads of household filing returns:~~

11	If the taxable income is:	The tax shall be:
12	Not over \$7,000	1.7% of taxable income
13	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of
14		excess over \$ 7,000
15	Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of
16		excess over \$ 14,000
17	Over \$ 20,000	\$ 625 plus 5.3% of
18		excess over \$ 20,000.

19 ~~E.]~~ D. The tax on the sum of any lump-sum amounts
20 included in net income is an amount equal to five multiplied
21 by the difference between:

22 (1) the amount of tax due on the taxpayer's
23 taxable income; and

24 (2) the amount of tax that would be due on
25 an amount equal to the taxpayer's taxable income and twenty

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1 percent of the taxpayer's lump-sum amounts included in net
2 income. "

3 Section 18. Section 7-2-7 NMSA 1978 (being Laws 2003,
4 Chapter 2, Section 6), which is to become effective January
5 1, 2007, is amended to read:

6 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed
7 by Section 7-2-3 NMSA 1978 shall be at the following rates
8 for any taxable year beginning on or after January 1, 2007:

9 A. For married individuals filing separate
10 returns:

11 If the taxable income is:	The tax shall be:
12 Not over \$4,000	1.7% of taxable income
13 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
14	excess over \$ 4,000
15 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
16	excess over \$ 8,000
17 Over \$ 12,000	\$ 384 plus 4.9% of
18	excess over \$ 12,000.

19 B. For heads of household, surviving spouses and
20 married individuals filing joint returns:

21 If the taxable income is:	The tax shall be:
22 Not over \$8,000	1.7% of taxable income
23 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
24	excess over \$ 8,000
25 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of

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1 excess over \$ 16, 000
2 Over \$ 24, 000 \$ 768 plus 4.9% of
3 excess over \$ 24, 000.

4 C. For single individuals and for estates and
5 trusts:

6 If the taxable income is:	The tax shall be:
7 Not over \$5, 500	1.7% of taxable income
8 Over \$ 5, 500 but not over \$ 11, 000	\$ 93. 50 plus 3.2% of
9	excess over \$ 5, 500
10 Over \$ 11, 000 but not over \$ 16, 000	\$ 269. 50 plus 4.7% of
11	excess over \$ 11, 000
12 Over \$ 16, 000	\$ 504. 50 plus 4.9% of
13	excess over \$ 16, 000.

14 ~~[D. For heads of household filing returns:~~

15 If the taxable income is:	The tax shall be:
16 Not over \$7, 000	1.7% of taxable income
17 Over \$ 7, 000 but not over \$ 14, 000	\$ 119 plus 3.2% of
18 	excess over \$ 7, 000
19 Over \$ 14, 000 but not over \$ 20, 000	\$ 343 plus 4.7% of
20 	excess over \$ 14, 000
21 Over \$ 20, 000	\$ 625 plus 4.9% of
22 	excess over \$ 20, 000.

23 E.] D. The tax on the sum of any lump-sum amounts
24 included in net income is an amount equal to five multiplied
25 by the difference between:

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1 (1) the amount of tax due on the taxpayer's
2 taxable income; and

3 (2) the amount of tax that would be due on
4 an amount equal to the taxpayer's taxable income and twenty
5 percent of the taxpayer's lump-sum amounts included in net
6 income. "

7 Section 19. A new section of the Gross Receipts and
8 Compensating Tax Act is enacted to read:

9 "[NEW MATERIAL] HIGH-WAGE JOBS TAX CREDIT. --

10 A. A taxpayer who is an eligible employer may
11 apply for, and the taxation and revenue department may allow,
12 a tax credit for each new high-wage economic-based job. The
13 credit provided in this section may be referred to as the
14 "high-wage jobs tax credit".

15 B. The high-wage jobs tax credit may be claimed
16 and allowed in an amount equal to ten percent of the wages
17 distributed to an eligible employee in a new high-wage
18 economic-based job, but shall not exceed twelve thousand
19 dollars (\$12,000).

20 C. The high-wage jobs tax credit may be claimed
21 by an eligible employer for each new high-wage economic-based
22 job performed for the year in which the new high-wage
23 economic-based job is created and for the three following
24 qualifying periods.

25 D. A new high-wage economic-based job shall not

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1 be eligible for a credit pursuant to this section unless the
2 eligible employer's total number of employees with new high-
3 wage economic-based jobs on the last day of the qualifying
4 period at the location at which the job is performed or based
5 is at least one more than the number on the day prior to the
6 date the job was created.

7 E. With respect to each new high-wage economic-
8 based job for which an eligible employer seeks the high-wage
9 jobs tax credit, the employer shall certify:

10 (1) the amount of wages paid to each
11 eligible employee in a new high-wage economic-based job
12 during each qualifying period;

13 (2) the number of weeks the position was
14 occupied during the qualifying period;

15 (3) whether the new high-wage economic-based
16 job was performed or based in:

17 (a) a municipality with a population
18 of forty thousand or more according to the most recent
19 federal decennial census;

20 (b) a municipality with a population
21 of less than forty thousand according to the most recent
22 federal decennial census; or

23 (c) the unincorporated area of a
24 county; and

25 (4) the total number of employees employed

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1 by the employer at the job location on the day prior to the
2 qualifying period and on the last day of the qualifying
3 period.

4 F. To receive a high-wage jobs tax credit with
5 respect to any qualifying period, an eligible employer shall
6 apply to the taxation and revenue department on forms and in
7 the manner prescribed by the department. The application
8 shall include a certification made pursuant to Subsection E
9 of this section.

10 G. The credit provided in this section may be
11 deducted from the modified combined tax liability of a
12 taxpayer. If the credit exceeds the modified combined tax
13 liability of the taxpayer, the excess shall be refunded to
14 the taxpayer.

15 H. As used in this section:

16 (1) "eligible employee" means an individual
17 who is employed by an eligible employer and who is a resident
18 of New Mexico; "eligible employee" does not include an
19 individual who:

20 (a) bears any of the relationships
21 described in Paragraphs (1) through (8) of 26 U. S. C. Section
22 152(a) to the employer or, if the employer is a corporation,
23 to an individual who owns, directly or indirectly, more than
24 fifty percent in value of the outstanding stock of the
25 corporation or, if the employer is an entity other than a

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1 corporation, to an individual who owns, directly or
2 indirectly, more than fifty percent of the capital and
3 profits interest in the entity;

4 (b) if the employer is an estate or
5 trust, is a grantor, beneficiary or fiduciary of the estate
6 or trust or is an individual who bears any of the
7 relationships described in Paragraphs (1) through (8) of 26
8 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary
9 of the estate or trust;

10 (c) is a dependent, as that term is
11 described in 26 U.S.C. Section 152(a)(9), of the employer or,
12 if the taxpayer is a corporation, of an individual who owns,
13 directly or indirectly, more than fifty percent in value of
14 the outstanding stock of the corporation or, if the employer
15 is an entity other than a corporation, of an individual who
16 owns, directly or indirectly, more than fifty percent of the
17 capital and profits interests in the entity or, if the
18 employer is an estate or trust, of a grantor, beneficiary or
19 fiduciary of the estate or trust; or

20 (d) is working or has worked as an
21 employee or as an independent contractor for an entity that
22 directly or indirectly owns stock in a corporation of the
23 eligible employer or other interest of the eligible employer
24 that represents fifty percent or more of the total voting
25 power of that entity or has a value equal to fifty percent or

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1 more of the capital and profits interest in the entity;

2 (2) "eligible employer" means an employer
3 that:

4 (a) made more than fifty percent of
5 its sales to persons outside New Mexico during the most
6 recent twelve months of the employer's modified combined tax
7 liability reporting periods ending prior to claiming a high-
8 wage jobs tax credit; and

9 (b) is eligible for training
10 assistance pursuant to Section 21-19-7 NMSA 1978;

11 (3) "modified combined tax liability" means
12 the total liability for the reporting period for the gross
13 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
14 any tax collected at the same time and in the same manner as
15 the gross receipts tax, including the compensating tax,
16 withholding tax, interstate telecommunications gross receipts
17 tax, surcharges imposed by Section 63-9D-5 NMSA 1978 and the
18 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the
19 amount of any credit other than the high-wage jobs tax credit
20 applied against any or all of these taxes or surcharges; but
21 "modified combined tax liability" excludes all amounts
22 collected with respect to local option gross receipts taxes;

23 (4) "new high-wage economic-based job" means
24 a job created by an eligible employer on or after July 1,
25 2004 and prior to July 1, 2009 that is occupied for at least

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1 forty-eight weeks of a qualifying period by an eligible
2 employee who is paid wages calculated for the qualifying
3 period to be at least:

4 (a) forty thousand dollars (\$40,000)
5 if the job is performed or based in a municipality with a
6 population of forty thousand or more according to the most
7 recent federal decennial census; and

8 (b) twenty-eight thousand dollars
9 (\$28,000) if the job is performed or based in a municipality
10 with a population of less than forty thousand according to
11 the most recent federal decennial census or in the
12 unincorporated area of a county;

13 (5) "qualifying period" means the period of
14 twelve months beginning on the day an eligible employee
15 begins working in a new high-wage economic-based job or the
16 period of twelve months beginning on the anniversary of the
17 day an eligible employee began working in a new high-wage
18 economic-based job; and

19 (6) "wages" means wages as defined in
20 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

21 Section 20. A new section of the Gross Receipts and
22 Compensating Tax Act is enacted to read:

23 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--RESEARCH AND
24 DEVELOPMENT SMALL BUSINESSES.--

25 A. Receipts of a qualified research and

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1 development small business may be deducted from gross
2 receipts to the extent that such receipts are directly
3 related to the subject matter of its qualified research, as
4 defined in Paragraph (3) of Subsection B of this section.
5 The deduction provided by this section may be claimed only
6 for a period ending thirty-five consecutive calendar months
7 after the first calendar month for which the deduction is
8 claimed by the taxpayer or by a person to whom the taxpayer
9 is a successor pursuant to Section 7-1-61 NMSA 1978.

10 B. As used in this section:

11 (1) "qualified research and development
12 small business" means a business, including a corporation,
13 general partnership, limited partnership, limited liability
14 company, sole proprietorship or other similar entity, that:

15 (a) employed no more than twenty-five
16 employees on a full-time-equivalent basis in any prior
17 calendar month;

18 (b) had total revenues of no more than
19 ten million dollars (\$10,000,000) in any prior fiscal year;

20 (c) did not in any prior calendar
21 month have more than fifty percent of its voting securities
22 or other equity interest with the right to designate or elect
23 the board of directors or other governing body of the
24 qualified business owned directly or indirectly by another
25 business; and

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1 (d) has made qualified research
2 expenditures for the period of twelve calendar months ending
3 with the month for which the deduction is sought of at least
4 twenty percent of its total revenues for those twelve
5 calendar months;

6 (2) "qualified research expenditure" means
7 an expenditure in connection with qualified research, but
8 does not include any expenditure on research funded by any
9 grant, contract or similar mechanism by another person or
10 governmental entity, and does not include any expenditure on
11 property that is owned by a municipality or county in
12 connection with an industrial revenue bond project or
13 property for which the taxpayer has received any credit
14 pursuant to the Capital Equipment Tax Credit Act, the
15 Investment Credit Act or the Technology Jobs Tax Credit Act;
16 and

17 (3) "qualified research" means research:

18 (a) that is undertaken for the purpose
19 of discovering information that is technological in nature
20 and the application of which is intended to be useful in the
21 development of a new or improved business component of the
22 taxpayer; and

23 (b) in which substantially all
24 activities constitute elements of a process of
25 experimentation related to new or improved function,

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1 performance, reliability or quality, but not related to
2 style, taste, cosmetic or seasonal design factors. "

3 Section 21. A new section of the Gross Receipts and
4 Compensating Tax Act is enacted to read:

5 " [NEW MATERIAL] DEDUCTION--COMPENSATING TAX--RESEARCH
6 AND DEVELOPMENT SMALL BUSINESSES. --

7 A. A qualified research and development small
8 business may deduct the value of tangible personal property
9 in computing the compensating tax due if the property is used
10 in connection with a qualified research expenditure. The
11 deduction provided by this section may be claimed only for a
12 period ending thirty-five consecutive calendar months after
13 the first calendar month for which the deduction is claimed.

14 B. As used in this section:

15 (1) "qualified research and development
16 small business" means a business, including a corporation,
17 general partnership, limited partnership, limited liability
18 company, sole proprietorship or other similar entity, that:

19 (a) employed no more than twenty-five
20 employees on a full-time-equivalent basis in any prior
21 calendar month;

22 (b) had total revenues of no more than
23 ten million dollars (\$10,000,000) in any prior fiscal year;

24 (c) did not in any prior calendar
25 month have more than fifty percent of its voting securities

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1 or other equity interest with the right to designate or elect
2 the board of directors or other governing body of the
3 qualified business owned directly or indirectly by another
4 business; and

5 (d) has made qualified research
6 expenditures for the period of twelve calendar months ending
7 with the month for which the deduction is sought of at least
8 twenty percent of its total revenues for those twelve
9 calendar months;

10 (2) "qualified research expenditure" means
11 an expenditure in connection with qualified research, but
12 does not include any expenditure on research funded by any
13 grant, contract or similar mechanism by another person or
14 governmental entity, and does not include any expenditure on
15 property that is owned by a municipality or county in
16 connection with an industrial revenue bond project or
17 property for which the taxpayer has received any credit
18 pursuant to the Capital Equipment Tax Credit Act, the
19 Investment Credit Act or the Technology Jobs Tax Credit Act;
20 and

21 (3) "qualified research" means research:
22 (a) that is undertaken for the purpose
23 of discovering information that is technological in nature
24 and the application of which is intended to be useful in the
25 development of a new or improved business component of the

underscored material = new
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1 taxpayer; and

2 (b) in which substantially all
3 activities constitute elements of a process of
4 experimentation related to new or improved function,
5 performance, reliability or quality, but not related to
6 style, taste, cosmetic or seasonal design factors."

7 Section 22. A new section of the Gross Receipts and
8 Compensating Tax Act is enacted to read:

9 "[NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX--RECEIPTS
10 FROM CERTAIN ATHLETIC CONTESTS, SPORTING EVENTS AND
11 CONCERTS.--Exempted from the gross receipts tax are:

12 A. receipts from promoting professional contests
13 subject to the regulatory fee imposed pursuant to Section
14 60-2A-23 NMSA 1978 and from exhibiting live professional
15 contests subject to the supervisory fee imposed pursuant to
16 Section 60-2A-26 NMSA 1978;

17 B. receipts from ticket sales or admission fees
18 for professional contests as defined in Section 60-2A-2 NMSA
19 1978, auto racing and one-time sporting events; and

20 C. receipts from ticket sales or admission fees
21 for a live concert held at a venue capable of accommodating
22 at least two thousand five hundred persons."

23 Section 23. Section 7-9-7 NMSA 1978 (being Laws 1966,
24 Chapter 47, Section 7, as amended) is amended to read:

25 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS

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1 "COMPENSATING TAX". --

2 A. For the privilege of using tangible property
3 in New Mexico, there is imposed on the person using the
4 property an excise tax equal to five percent of the value of
5 tangible property that was:

6 (1) manufactured by the person using the
7 property in the state;

8 (2) acquired outside this state as the
9 result of a transaction that would have been subject to the
10 gross receipts tax had it occurred within this state; or

11 (3) acquired as the result of a transaction
12 which was not initially subject to the compensating tax
13 imposed by Paragraph (2) of this subsection or the gross
14 receipts tax but which transaction, because of the buyer's
15 subsequent use of the property, should have been subject to
16 the compensating tax imposed by Paragraph (2) of this
17 subsection or the gross receipts tax.

18 B. For the purpose of Subsection A of this
19 section, value of tangible property shall be the adjusted
20 basis of the property for federal income tax purposes
21 determined as of the time of acquisition or introduction into
22 this state or of conversion to use, whichever is later. If
23 no adjusted basis for federal income tax purposes is
24 established for the property, a reasonable value of the
25 property shall be used.

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1 C. For the privilege of using services rendered
2 in New Mexico, there is imposed on the person using such
3 services an excise tax equal to five percent of the value of
4 the services at the time they were rendered. The services,
5 to be taxable under this subsection, must have been rendered
6 as the result of a transaction which was not initially
7 subject to the gross receipts tax but which transaction,
8 because of the buyer's subsequent use of the services, should
9 have been subject to the gross receipts tax.

10 D. For the privilege of using services performed
11 outside New Mexico, the product of which is initially used in
12 New Mexico, there is imposed an excise tax equal to five
13 percent of the value of the services at the time they were
14 performed. The services, to be taxable under this
15 subsection, must have been performed by a seller that has no
16 nexus with this state in a transaction that would have been
17 subject to the gross receipts tax had it occurred within this
18 state. The department may promulgate rules to establish the
19 value of the services performed and to apportion fairly the
20 value when the services are performed or delivered
21 simultaneously in more than one state.

22 [~~D.~~] E. The tax imposed by this section shall be
23 referred to as the "compensating tax". "

24 Section 24. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
25 Chapter 45, Section 1, as amended) is amended to read:

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1 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
2 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX
3 LIABILITIES. --

4 A. The department shall take no action to enforce
5 collection of compensating tax or any local option
6 compensating tax due on purchases made by an individual if:

7 (1) the property is used only for
8 nonbusiness purposes;

9 (2) the property is not a manufactured home;
10 and

11 (3) the individual is not an agent for
12 collection of compensating tax pursuant to Section 7-9-10
13 NMSA 1978.

14 B. The prohibition in Subsection A of this
15 section does not prevent the department from enforcing
16 collection of compensating tax or any local option
17 compensating tax on purchases from persons who are not
18 individuals, who are agents for collection pursuant to
19 Section 7-9-10 NMSA 1978 or who use the property in the
20 course of engaging in business in New Mexico or from
21 enforcing collection of compensating tax or any local option
22 compensating tax due on purchase of manufactured homes. "

23 Section 25. Section 7-9-9 NMSA 1978 (being Laws 1966,
24 Chapter 47, Section 9, as amended) is amended to read:

25 "7-9-9. LIABILITY OF USER FOR PAYMENT OF COMPENSATING

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1 TAX AND LOCAL OPTION COMPENSATING TAX. -- Any person in New
2 Mexico using property on the value of which compensating tax
3 and local option compensating tax is payable but has not been
4 paid is liable to the state for payment of the compensating
5 tax and applicable local option compensating tax, but this
6 liability is discharged if the buyer has paid the
7 compensating tax and applicable local option compensating tax
8 to the seller for payment over to the department. "

9 Section 26. A new section of the Gross Receipts and
10 Compensating Tax Act is enacted to read:

11 "[NEW MATERIAL] CREDIT--COMPENSATING TAX--MUNICIPAL
12 COMPENSATING TAX PAID.--A credit shall be allowed for each
13 reporting period against the compensating tax for an amount
14 of the municipal compensating tax equal to:

15 A. one-half percent of the value of property for
16 which the taxpayer is liable for that reporting period if the
17 rate of the municipal compensating tax in effect at the time
18 of the use was at least one-half percent; or

19 B. one-fourth percent of the value of property
20 for which the taxpayer is liable for that reporting period if
21 the rate of the municipal compensating tax in effect at the
22 time of the use was one-fourth percent. "

23 Section 27. Section 7-9-22 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 15, as amended) is amended to read:

25 "7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--

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1 Exempted from the gross receipts tax are the receipts from
2 selling vehicles on which a tax is imposed by the Motor
3 Vehicle Excise Tax Act, [~~and on~~] vehicles subject to
4 registration under Section 66-3-16 NMSA 1978 and vehicles
5 exempt from the motor vehicle excise tax pursuant to
6 Subsection F of Section 7-14-6 NMSA 1978. "

7 Section 28. Section 7-9-23 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 16, as amended) is amended to read:

9 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES. --
10 Exempted from the compensating tax is the use of vehicles on
11 which the tax imposed by the Motor Vehicle Excise Tax Act has
12 been paid, [~~and on~~] the use of vehicles subject to
13 registration under Section 66-3-16 NMSA 1978 and the use of
14 vehicles exempt from the motor vehicle excise tax pursuant to
15 Subsection F of Section 7-14-6 NMSA 1978. "

16 Section 29. Section 7-9-43 NMSA 1978 (being Laws 1966,
17 Chapter 47, Section 13, as amended) is amended to read:

18 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
19 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS
20 [~~RENEWAL~~]. --

21 A. [~~All nontaxable transaction certificates of~~
22 ~~the appropriate series executed by buyers or lessees should~~
23 ~~be in the possession of the seller or lessor for nontaxable~~
24 ~~transactions at the time the return is due for receipts from~~
25 ~~the transactions. If the seller or lessor is not in~~

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1 ~~possession of the required nontaxable transaction~~
2 ~~certificates within sixty days from the date that the notice~~
3 ~~requiring possession of these nontaxable transaction~~
4 ~~certificates is given the seller or lessor by the department,~~
5 ~~deductions claimed by the seller or lessor that require~~
6 ~~delivery of these nontaxable transaction certificates shall~~
7 ~~be disallowed.—The] Nontaxable transaction certificates~~
8 shall contain the information and be in a form prescribed by
9 the department. The department by regulation may deem to be
10 nontaxable transaction certificates documents issued by other
11 states or the multistate tax commission to taxpayers not
12 required to be registered in New Mexico. Only buyers or
13 lessees who have a registration number or have applied for a
14 registration number and have not been refused one under
15 Subsection C of Section 7-1-12 NMSA 1978 shall execute
16 nontaxable transaction certificates issued by the department.
17 If the seller or lessor has been given an identification
18 number for tax purposes by the department, the seller or
19 lessor shall disclose that identification number to the buyer
20 or lessee prior to or upon acceptance of a nontaxable
21 transaction certificate. When the seller or lessor accepts a
22 nontaxable transaction certificate [~~within the required time~~
23 ~~and~~] in good faith that the buyer or lessee will employ the
24 property or service transferred in a nontaxable manner, the
25 properly executed nontaxable transaction certificate shall be

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1 conclusive evidence, and the only material evidence, that the
2 proceeds from the transaction are deductible from the
3 seller's or lessor's gross receipts.

4 B. Notwithstanding any other provision of the
5 Gross Receipts and Compensating Tax Act, when a seller or
6 lessor required by provisions of this act to have a
7 nontaxable transaction certificate to claim a deduction is
8 unable to obtain the required nontaxable transaction
9 certificate because the buyer or lessee has initiated
10 bankruptcy proceedings under federal bankruptcy laws, is dead
11 or no longer exists as a business entity, the department
12 shall allow the deduction upon presentation of other evidence
13 acceptable to the secretary that the taxpayer is entitled to
14 claim the deduction.

15 ~~[B.]~~ C. Properly executed documents required to
16 support the deductions provided in Sections 7-9-57, 7-9-58
17 and 7-9-74 NMSA 1978 should be in the possession of the
18 seller at the time the return is due for receipts from the
19 transactions. If the seller is not in possession of these
20 documents ~~[within sixty days from the date that the notice~~
21 ~~requiring possession of these documents is given to the~~
22 ~~seller by the department]~~ on a date not later than thirty
23 days prior to the date of a formal hearing on a protest that
24 requires the documents to establish the taxpayer's
25 entitlement to any deduction under protest, the deductions

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1 claimed by the seller or lessor that require delivery of
2 these documents shall be disallowed. These documents shall
3 contain the information and be in a form prescribed by the
4 department. When the seller accepts these documents within
5 the required time and in good faith that the buyer will
6 employ the property or service transferred in a nontaxable
7 manner, the properly executed documents shall be conclusive
8 evidence, and the only material evidence, that the proceeds
9 from the transaction are deductible from the seller's gross
10 receipts.

11 ~~[C. Notice, as used in this section, is~~
12 ~~sufficient if the notice is mailed or served as provided in~~
13 ~~Subsection A of Section 7-1-9 NMSA 1978. Notice by the~~
14 ~~department under this section shall not be given prior to the~~
15 ~~commencement of an audit of the seller required to be in~~
16 ~~possession of the documents.~~

17 ~~D. On January 1, 2005, every nontaxable~~
18 ~~transaction certificate, except for nontaxable transaction~~
19 ~~certificates of the series applicable to the twelve-year~~
20 ~~period beginning January 1, 2005 and issued by the department~~
21 ~~prior to that date, is void with respect to transactions~~
22 ~~after December 31, 2004. The department shall issue separate~~
23 ~~series of nontaxable transaction certificates for the twelve-~~
24 ~~year period beginning January 1, 2005 and for each twelve-~~
25 ~~year period beginning on January 1 of every twelfth year~~

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1 ~~succeeding calendar year 2005. A series of nontaxable~~
2 ~~transaction certificates issued by the department for any~~
3 ~~twelve-year period may be executed by buyers or lessees for~~
4 ~~transactions occurring within or prior to that twelve-year~~
5 ~~period but is not valid for transactions occurring after that~~
6 ~~twelve-year period, except the nontaxable transaction~~
7 ~~certificates issued by the department for the period January~~
8 ~~1, 1992 to December 31, 2001 may be executed by buyers or~~
9 ~~lessees for transactions occurring prior to December 31,~~
10 ~~2004. For administrative convenience, the department may~~
11 ~~accept and approve qualifying applications for the privilege~~
12 ~~of executing nontaxable transaction certificates and pre-~~
13 ~~issue certificates of any series within the six-month period~~
14 ~~immediately preceding the beginning of the twelve-year period~~
15 ~~to which the series of nontaxable transaction certificates~~
16 ~~applies.~~

17 ~~E.]~~ D. To exercise the privilege of executing
18 appropriate nontaxable transaction certificates, a buyer or
19 lessee shall apply to the department for permission to
20 execute nontaxable transaction certificates, except with
21 respect to documents issued by other states or the multistate
22 tax commission that the department has deemed to be
23 nontaxable transaction certificates. If a person is shown on
24 the department's records to be a delinquent taxpayer or to
25 have a non-filed period, the department may refuse to approve

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1 the application of the person until the person has filed
2 returns for all non-filed periods and is no longer shown to
3 be a delinquent taxpayer, and the taxpayer may protest that
4 refusal pursuant to Section 7-1-24 NMSA 1978. Upon the
5 department's approval of the application, the buyer or lessee
6 may request appropriate nontaxable transaction certificates
7 for execution by the buyer or lessee; provided that if a
8 person is shown on the department's records to be a
9 delinquent taxpayer or to have a non-filed period, the
10 department may refuse to issue nontaxable transaction
11 certificates to the person until the person has filed returns
12 for all non-filed periods and is no longer shown to be a
13 delinquent taxpayer. The taxpayer may protest that refusal
14 pursuant to Section 7-1-24 NMSA 1978. The department may
15 require a buyer or lessee requesting and receiving nontaxable
16 transaction certificates for execution by that buyer or
17 lessee to report to the department the names, addresses and
18 identification numbers assigned by the department of the
19 sellers and lessors to whom they have delivered nontaxable
20 transaction certificates. The department may require a
21 seller or lessor engaged in business in New Mexico to report
22 to the department the names, addresses and federal employer
23 identification numbers or state identification numbers for
24 tax purposes issued by the department of the buyers or
25 lessees from whom the seller or lessor has accepted

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1 nontaxable transaction certificates. "

2 Section 30. Section 7-12-7 NMSA 1978 (being Laws 1971,
3 Chapter 77, Section 7, as amended) is amended to read:

4 "7-12-7. SALE OF STAMPS--PRICES. --

5 A. The department shall sell stamps to any person
6 who sells in New Mexico cigarettes manufactured by that
7 person and to any person who receives on consignment or buys
8 unstamped cigarettes for sale, gift or consumption in New
9 Mexico; provided [~~such persons are~~] that the person is
10 registered with the department [~~under~~] pursuant to the
11 provisions of Section 7-1-12 NMSA 1978. Stamps shall be sold
12 at their face value. [~~with the following discounts:~~

13 ~~(1) four percent less than the face value of~~
14 ~~the first thirty thousand dollars (\$30,000) of stamps~~
15 ~~purchased in one calendar month;~~

16 ~~(2) three percent less than the face value~~
17 ~~of the second thirty thousand dollars (\$30,000) of stamps~~
18 ~~purchased in one calendar month; and~~

19 ~~(3) two percent less than the face value of~~
20 ~~all stamps purchased in excess of sixty thousand dollars~~
21 ~~(\$60,000) in one calendar month.~~

22 ~~B. If the face value of stamps sold in a single~~
23 ~~sale is less than one thousand dollars (\$1,000), the discount~~
24 ~~provided for in this section shall not be allowed.~~

25 ~~C.]~~ B. Payment for stamps shall be made on or

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1 before the twenty-fifth day of the month following the month
2 in which the sale of stamps by the department is made."

3 Section 31. Section 7-14-4 NMSA 1978 (being Laws 1988,
4 Chapter 73, Section 14) is amended to read:

5 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE
6 EXCISE TAX. --

7 A. The rate of the motor vehicle excise tax is
8 [~~three~~] four percent and is applied to the price paid for the
9 vehicle. If the price paid does not represent the value of
10 the vehicle in the condition that existed at the time it was
11 acquired, the tax rate shall be applied to the reasonable
12 value of the vehicle in such condition at such time.

13 However, allowances granted for vehicle trade-ins may be
14 deducted from the price paid or the reasonable value of the
15 vehicle purchased.

16 B. Notwithstanding the provisions of Subsection A
17 of this section, the minimum amount of motor vehicle excise
18 tax imposed pursuant to Subsection 7-14-3 shall be twenty
19 dollars (\$20.00)."

20 Section 32. Section 7-14-6 NMSA 1978 (being Laws 1988,
21 Chapter 73, Section 16, as amended) is amended to read:

22 "7-14-6. EXEMPTIONS FROM TAX. --

23 A. Persons who acquire a vehicle out of state
24 thirty or more days before establishing a domicile in this
25 state are exempt from the tax if the vehicle was acquired for

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1 personal use.

2 B. Persons applying for a certificate of title
3 for a vehicle registered in another state are exempt from the
4 tax if they have previously registered and titled the vehicle
5 in New Mexico and have owned the vehicle continuously since
6 that time.

7 C. Certificates of title for all vehicles owned
8 by this state or any political subdivision are exempt from
9 the tax.

10 D. A vehicle subject to registration under
11 Section 66-3-16 NMSA 1978 is exempt from the tax.

12 E. Persons who acquire vehicles for subsequent
13 lease shall be exempt from the tax if:

14 (1) the person does not use the vehicle in
15 any manner other than holding it for lease or sale or leasing
16 or selling it in the ordinary course of business;

17 (2) the lease is for a term of more than six
18 months;

19 (3) the receipts from the subsequent lease
20 are subject to the gross receipts tax; and

21 (4) the vehicle does not have a gross
22 vehicle weight of over twenty-six thousand pounds.

23 F. Vehicles that are manufactured to operate
24 exclusively on alternative fuel or are gasoline-electric
25 hybrid vehicles with a United States environmental protection

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1 agency fuel economy rating of at least twenty-two and one-
2 half miles per gallon are eligible for a one-time exemption
3 from the tax at the time of the issuance of the original
4 certificate of title for the vehicle. For purposes of this
5 subsection, "alternative fuel" means natural gas, liquefied
6 petroleum gas, electricity, hydrogen, a fuel mixture
7 containing not less than eighty-five percent ethanol or
8 methanol, a fuel mixture containing not less than twenty
9 percent vegetable oil or a water-phased hydrocarbon fuel
10 emulsion consisting of a hydrocarbon base and water in an
11 amount not less than twenty percent by volume of the total
12 water-phased fuel emulsion."

13 Section 33. Section 7-14A-3.1 NMSA 1978 (being Laws
14 1993, Chapter 359, Section 1) is amended to read:

15 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
16 SURCHARGE. --

17 A. There is imposed a surcharge on the leasing of
18 a vehicle to another person by a person engaging in business
19 in New Mexico if the lease is subject to the leased vehicle
20 gross receipts tax. [~~The amount of this surcharge is two~~
21 ~~dollars (\$2.00) for each day each vehicle is leased by the~~
22 ~~person.~~] The surcharge may be referred to as the "leased
23 vehicle surcharge".

24 B. Until June 30, 2004, the amount of the leased
25 vehicle surcharge is three dollars (\$3.00) for each day the

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1 vehicle is leased by the person.

2 C. From July 1, 2004 and thereafter, the amount
3 of the leased vehicle surcharge is four dollars (\$4.00) for
4 each day the vehicle is leased by the person."

5 Section 34. Section 7-15A-2 NMSA 1978 (being Laws 1988,
6 Chapter 73, Section 29) is amended to read:

7 "7-15A-2. DEFINITIONS. --As used in the Weight Distance
8 Tax Act:

9 A. "bus" means ~~every~~ a motor vehicle designed
10 and used for the transportation of ~~persons~~ a person and
11 ~~every~~ a motor vehicle, other than a taxicab, designed and
12 used for the transportation of ~~persons~~ a person for
13 compensation;

14 B. "declared gross weight" means the declared
15 gross weight for purposes of the Motor Transportation Act;

16 C. "department" means the taxation and revenue
17 department, the secretary of taxation and revenue or ~~any~~ an
18 employee of that department exercising authority lawfully
19 delegated to that employee by the secretary;

20 D. "gross vehicle weight" means the weight of a
21 vehicle without load, plus the weight of ~~any~~ a load
22 ~~thereon~~ upon the vehicle;

23 E. "motor vehicle" means ~~every~~ a vehicle
24 ~~which~~ that is self-propelled and ~~every~~ a vehicle ~~which~~
25 that is propelled by electric power obtained from batteries

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1 or from overhead trolley wires, but not operated upon rails;

2 F. "person" means [any]:

3 (1) an individual, estate, trust, receiver,
4 cooperative association, club, corporation, company, firm,
5 partnership, joint venture, syndicate or other association;

6 [~~"person" also means~~] and

7 (2) to the extent permitted by law, [any] a
8 federal, state or other governmental unit or subdivision or
9 an agency, department or instrumentality [~~thereof~~] of the
10 federal, state or other governmental unit;

11 G. "registrant" means [any] a person who has
12 registered the vehicle pursuant to the laws of this state or
13 another state;

14 H. "secretary" means the secretary of taxation
15 and revenue or the secretary's delegate;

16 I. "tax" means the weight distance tax imposed by
17 the Weight Distance Tax Act; [~~and~~]

18 J. "vehicle" means [every] a device in, upon or
19 by which [any] a person or property is or may be transported
20 or drawn upon a highway, including [any] a frame, chassis or
21 body of [any] a vehicle or motor vehicle, except [~~devices~~] a
22 device moved by human power or used exclusively upon
23 stationary rails or tracks; and

24 K. "weight distance tax identification permit"
25 means an administrative certificate that is issued by the

1 department and that identifies a specific vehicle as subject
2 to the tax imposed pursuant to the Weight Distance Tax Act. "

3 Section 35. Section 7-15A-6 NMSA 1978 (being Laws 1988,
4 Chapter 73, Section 33) is amended to read:

5 "7-15A-6. TAX RATE FOR MOTOR VEHICLES OTHER THAN
6 BUSES-- REDUCTION OF RATE FOR ONE-WAY HAULS. --

7 A. For on-highway operations of motor vehicles
8 other than buses, the weight distance tax shall be computed
9 in accordance with the following schedule:

10 Declared Gross Weight	Tax Rate
11 (Gross Vehicle Weight)	(Mills per Mile)
12 26,000 to 28,000	[7-97] <u>11.32</u>
13 28,001 to 30,000	[8-60] <u>12.22</u>
14 30,001 to 32,000	[9-24] <u>13.13</u>
15 32,001 to 34,000	[9-87] <u>14.02</u>
16 34,001 to 36,000	[10-51] <u>14.93</u>
17 36,001 to 38,000	[11-14] <u>15.82</u>
18 38,001 to 40,000	[12-11] <u>17.20</u>
19 40,001 to 42,000	[13-06] <u>18.55</u>
20 42,001 to 44,000	[14-01] <u>19.90</u>
21 44,001 to 46,000	[14-97] <u>21.26</u>
22 46,001 to 48,000	[15-93] <u>22.63</u>
23 48,001 to 50,000	[16-88] <u>23.98</u>
24 50,001 to 52,000	[17-84] <u>25.34</u>
25 52,001 to 54,000	[18-79] <u>26.69</u>

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1	54,001 to 56,000	[19.75]	<u>28.05</u>
2	56,001 to 58,000	[20.71]	<u>29.42</u>
3	58,001 to 60,000	[21.66]	<u>30.77</u>
4	60,001 to 62,000	[22.61]	<u>32.12</u>
5	62,001 to 64,000	[23.58]	<u>33.49</u>
6	64,001 to 66,000	[24.53]	<u>34.84</u>
7	66,001 to 68,000	[25.48]	<u>36.19</u>
8	68,001 to 70,000	[26.43]	<u>37.54</u>
9	70,001 to 72,000	[27.40]	<u>38.92</u>
10	72,001 to 74,000	[28.41]	<u>40.36</u>
11	74,001 to 76,000	[29.46]	<u>41.85</u>
12	76,001 to 78,000	[30.55]	<u>43.39</u>
13	78,001 and over	[31.68]	<u>45.00.</u>

14 B. All motor vehicles for which the tax is
15 computed under Subsection A of this section shall pay a tax
16 [~~which~~] that is two-thirds of the tax computed under
17 Subsection A of this section if:

- 18 (1) the motor vehicle is customarily used
19 for one-way haul;
- 20 (2) forty-five percent or more of the
21 mileage traveled by the motor vehicle for a registration year
22 is mileage [~~which~~] that is traveled empty of all load; and
- 23 (3) the registrant, owner or operator of the
24 vehicle attempting to qualify under this subsection has made
25 a sworn application to the department to be classified under

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1 this subsection for a registration year and has given
2 whatever information is required by the department to
3 determine the eligibility of the vehicle to be classified
4 under this subsection and the vehicle has been so
5 classified. "

6 Section 36. Section 7-15A-7 NMSA 1978 (being Laws 1988,
7 Chapter 73, Section 34) is amended to read:

8 "7-15A-7. TAX RATE FOR BUSES. -- For all buses, the
9 weight distance tax shall be computed in accordance with the
10 following schedule:

11 Declared Gross Weight	Tax Rate
12 (Gross Vehicle Weight)	(Mills per Mile)
13 26,000 to 28,000	[7.97] <u>11.32</u>
14 28,001 to 30,000	[8.60] <u>12.22</u>
15 30,001 to 32,000	[9.24] <u>13.13</u>
16 32,001 to 34,000	[9.87] <u>14.02</u>
17 34,001 to 36,000	[10.52] <u>14.93</u>
18 36,001 to 38,000	[11.15] <u>15.82</u>
19 38,001 to 40,000	[12.12] <u>17.20</u>
20 40,001 to 42,000	[13.07] <u>18.55</u>
21 42,001 to 44,000	[14.02] <u>19.90</u>
22 44,001 to 46,000	[14.97] <u>21.26</u>
23 46,001 to 48,000	[15.94] <u>22.63</u>
24 48,001 to 50,000	[16.89] <u>23.98</u>
25 50,001 to 52,000	[17.85] <u>25.34</u>

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1 addition to a weight distance tax, special fuel excise tax
2 and other use fee imposed for the use of public highways of
3 this state. The department shall determine the amount of the
4 fee pursuant to regulation. The fee shall not exceed ten
5 dollars (\$10.00).

6 B. The department shall deposit to the weight
7 distance tax identification permit administration fund all
8 proceeds from administrative fees collected by the department
9 pursuant to this section."

10 Section 39. A new section of the Weight Distance Tax
11 Act is enacted to read:

12 "[NEW MATERIAL] WEIGHT DISTANCE TAX IDENTIFICATION
13 PERMIT ADMINISTRATION FUND. --The "weight distance tax
14 identification permit administration fund" is created in the
15 state treasury. The purpose of the fund is to provide an
16 account from which the department may pay the costs of
17 issuing and administering weight distance tax identification
18 permits. The fund shall consist of administrative fees
19 collected pursuant to the Weight Distance Tax Act. Money in
20 the fund shall be appropriated to the department to pay for
21 the cost of issuing and administering weight distance tax
22 identification permits. Disbursements from the fund shall be
23 by warrant of the secretary of finance and administration
24 upon vouchers signed by the secretary or the secretary's
25 authorized representative. Money in the fund shall not

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1 revert to the general fund at the end of a fiscal year."

2 Section 40. Section 7-16A-3 NMSA 1978 (being Laws 1992,
3 Chapter 51, Section 3, as amended) is amended to read:

4 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
5 SPECIAL FUEL EXCISE TAX. --

6 A. For the privilege of receiving or using
7 special fuel in this state, there is imposed an excise tax at
8 a rate provided in Subsection B of this section on each
9 gallon of special fuel received in New Mexico.

10 B. Until June 30, 2004, the tax imposed by
11 Subsection A of this section shall be eighteen cents (\$.18)
12 per gallon of special fuel received or used in New Mexico.

13 C. From July 1, 2004 until June 30, 2005, the tax
14 imposed by Subsection A of this section shall be twenty-one
15 cents (\$.21) per gallon of special fuel received or used in
16 New Mexico.

17 D. From July 1, 2005 until June 30, 2006, the tax
18 imposed by Subsection A of this section shall be twenty-two
19 cents (\$.22) per gallon of special fuel received or used in
20 New Mexico.

21 E. From July 1, 2006 and thereafter, the tax
22 imposed by Subsection A of this section shall be twenty-three
23 cents (\$.23) per gallon of special fuel received or used in
24 New Mexico.

25 [~~C.~~] F. The tax imposed by this section may be

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1 called the "special fuel excise tax". "

2 Section 41. Section 7-19-12 NMSA 1978 (being Laws 1979,
3 Chapter 397, Section 3, as amended) is amended to read:

4 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL
5 MUNICIPAL GROSS RECEIPTS TAX AND SUPPLEMENTAL MUNICIPAL
6 COMPENSATING TAX- - AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
7 MUNICIPAL GROSS RECEIPTS BONDS- - ELECTION REQUIRED. - -

8 A. The majority of the members elected to the
9 governing body of a municipality may enact an ordinance
10 imposing an excise tax on any person engaging in business in
11 the municipality for the privilege of engaging in business in
12 the municipality. This tax is to be referred to as the
13 "supplemental municipal gross receipts tax". The rate of the
14 tax shall not exceed one percent of the gross receipts of the
15 person engaging in business and shall be imposed in one-
16 fourth percent increments if less than one percent.

17 B. An ordinance imposing a tax authorized by
18 Subsection A of this section shall also impose a tax for the
19 privilege of using property in the municipality if the use or
20 service is subject to the compensating tax. This tax shall
21 be referred to as the "supplemental municipal compensating
22 tax". The rate of the tax imposed pursuant to this
23 subsection shall be the same as the rate of tax imposed
24 pursuant to Subsection A of this section. If, at the time
25 this 2003 act becomes effective, a municipality has in effect

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1 any amount of supplemental municipal gross receipts tax, a
2 supplemental municipal compensating tax is hereby imposed at
3 the same rate, effective on the effective date of this 2003
4 act.

5 ~~[B.]~~ C. The governing body of a municipality
6 enacting an ordinance imposing the tax authorized in
7 ~~[Subsection A]~~ Subsections A and B of this section shall
8 submit the question of imposing such ~~[tax]~~ taxes and the
9 question of the issuance of supplemental municipal gross
10 receipts bonds in an amount not to exceed nine million
11 dollars (\$9,000,000), for which the revenue from the
12 supplemental municipal gross receipts tax and supplemental
13 municipal compensating tax is dedicated, to the qualified
14 electors of the municipality at a regular or special
15 election.

16 ~~[C.]~~ D. The questions referred to in Subsection
17 ~~[B]~~ C of this section shall be submitted to a vote of the
18 qualified electors of the municipality as two separate ballot
19 questions, which shall be substantially in the following
20 form:

21 (1) "Shall the municipality be authorized to
22 issue supplemental municipal gross receipts bonds in an
23 amount of not exceeding _____ dollars for the
24 purpose of constructing and equipping and otherwise acquiring
25 a municipal water supply system?"

1 For _____ Against _____"; and

2 (2) "Shall the municipality impose an excise
3 tax for the privilege of engaging in business in the
4 municipality which shall be known as the "supplemental
5 municipal gross receipts tax" and an excise tax on the use of
6 property in the municipality which shall be known as the
7 "supplemental municipal compensating tax", both of which
8 shall be imposed at a rate of _____ percent [~~of the~~
9 ~~gross receipts of the person engaging in business~~], the
10 proceeds of which are dedicated to the payment of
11 supplemental municipal gross receipts bonds?

12 For _____ Against _____".

13 [~~D-~~] E. Only those voters who are registered
14 electors who reside within the municipality shall be
15 permitted to vote on these two questions. The procedures for
16 conducting the election shall be substantially the same as
17 the applicable provisions in Sections 3-30-1, 3-30-6 and
18 3-30-7 NMSA 1978 relating to municipal debt.

19 [~~E-~~] F. If at an election called pursuant to this
20 section a majority of the voters voting on each of the two
21 questions vote in the affirmative on each [~~such~~] question,
22 [~~then~~] the ordinance imposing the supplemental municipal
23 gross receipts tax and supplemental municipal compensating
24 tax shall be approved. If at such election a majority of the
25 voters voting on such questions fail to approve any of the

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1 questions, [~~then~~] the ordinance imposing the [~~tax~~] taxes
2 shall be disapproved and the questions required to be
3 submitted by Subsection [~~B~~] C of this section shall not be
4 submitted to the voters for a period of one year from the
5 date of the election.

6 [~~F-~~] G. Any ordinance enacted under the
7 provisions of this section shall include an effective date of
8 either July 1 or January 1, whichever date occurs first after
9 the expiration of at least [~~five~~] three months from the date
10 of the election. A certified copy of any ordinance imposing
11 a supplemental municipal gross receipts tax and supplemental
12 municipal compensating tax shall be mailed to the [~~division~~]
13 department within five days after the ordinance is adopted by
14 the approval by the electorate. Any ordinance repealing the
15 imposition of a tax under the provisions of the Supplemental
16 Municipal Gross Receipts Tax Act shall become effective on
17 either July 1 or January 1, after the expiration of at least
18 [~~five~~] three months from the date the ordinance is repealed
19 by the governing body.

20 [~~G-~~] H. Nothing in this section is intended to or
21 does alter the effectiveness or validity of any actions taken
22 in accordance with Subsection G of Section 80 of Chapter 20
23 of Laws 1986. "

24 Section 42. Section 7-19-13 NMSA 1978 (being Laws 1979,
25 Chapter 397, Section 4) is amended to read:

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1 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
2 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
3 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT. - -

4 A. Any ordinance imposing a supplemental
5 municipal gross receipts tax and supplemental municipal
6 compensating tax shall adopt by reference the same
7 definitions and the same provisions relating to exemptions
8 and deductions as are contained in the Gross Receipts and
9 Compensating Tax Act then in effect and as it may be amended
10 from time to time.

11 B. The governing body of any municipality
12 imposing or increasing the supplemental municipal gross
13 receipts tax [~~must~~] and supplemental municipal compensating
14 tax shall adopt the language of the model ordinance furnished
15 to the municipality by the [~~division~~] department for the
16 portion of the ordinance relating to the tax. "

17 Section 43. Section 7-19-15 NMSA 1978 (being Laws 1979,
18 Chapter 397, Section 6, as amended) is amended to read:

19 "7-19-15. COLLECTION BY DEPARTMENT-- TRANSFER OF
20 PROCEEDS-- DEDUCTIONS. - -

21 A. The department shall collect the supplemental
22 municipal gross receipts tax in the same manner and at the
23 same time it collects the state gross receipts tax. The
24 department shall collect the supplemental municipal
25 compensating tax in the same manner and at the same time it

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1 collects the compensating tax.

2 B. The department shall withhold an
3 administrative fee pursuant to Section [~~1 of this 1997 act~~]
4 7-1-6.41 NMSA 1978. The department shall transfer to each
5 municipality for which it is collecting a supplemental
6 municipal gross receipts tax the amount of the tax collected
7 less the administrative fee withheld and less any
8 disbursements for tax credits, refunds and the payment of
9 interest applicable to the supplemental municipal gross
10 receipts tax. The department shall transfer to each
11 municipality for which it is collecting a supplemental
12 municipal compensating tax the amount of the tax collected
13 less any disbursements for tax credits, refunds and payment
14 of interest applicable to the supplemental municipal
15 compensating tax. Transfer of the [~~tax~~] taxes to a
16 municipality shall be made within the month following the
17 month in which the [~~tax is~~] taxes are collected. "

18 Section 44. Section 7-19-16 NMSA 1978 (being Laws 1979,
19 Chapter 397, Section 7) is amended to read:

20 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
21 ENFORCEMENT OF [~~TAX~~] TAXES. --

22 A. The [~~division~~] department shall interpret the
23 provisions of the Supplemental Municipal Gross Receipts Tax
24 Act.

25 B. The [~~division~~] department shall administer and

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1 enforce the collection of the supplemental municipal gross
2 receipts tax and the supplemental municipal compensating tax,
3 and the Tax Administration Act applies to the administration
4 and enforcement of the [~~tax~~] taxes. "

5 Section 45. Section 7-19-18 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 9, as amended) is amended to read:

7 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX--
8 SUPPLEMENTAL MUNICIPAL COMPENSATING TAX--USE OF PROCEEDS--
9 RESTRICTION. --

10 A. The proceeds from the supplemental municipal
11 gross receipts tax and supplemental municipal compensating
12 tax shall be deposited in a special improvement account of
13 the municipality and shall be used only for:

14 (1) the payment of the principal of,
15 interest on, any prior redemption premiums due in connection
16 with and other expenses related to the supplemental municipal
17 gross receipts bonds issued pursuant to the Supplemental
18 Municipal Gross Receipts Tax Act;

19 (2) the funding of any reserves and other
20 accounts in connection with such bonds;

21 (3) refunding bonds; and

22 (4) to the extent not needed for those
23 purposes, the improvement of the municipality's water system.

24 B. When any issue of supplemental municipal gross
25 receipts bonds is fully paid, the supplemental municipal

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1 gross receipts tax and supplemental municipal compensating
2 tax shall cease to be imposed for that issue, but may
3 continue to be imposed for bonds enacted and approved
4 pursuant to Section 7-19-12 NMSA 1978 and thereafter issued,
5 or for refunding bonds issued pursuant to Section [~~4 of this~~
6 ~~1997 act~~] 7-19-17.1 NMSA 1978. Any money remaining in a
7 special improvement account after the obligations for
8 supplemental municipal gross receipts bonds and refunding
9 bonds are fully paid may be transferred to any other fund of
10 the municipality. "

11 Section 46. A new section of the Municipal Local Option
12 Gross Receipts Taxes Act is enacted to read:

13 "[NEW MATERIAL] MUNICIPAL LOCAL OPTION COMPENSATING
14 TAXES. --

15 A. An ordinance imposing, increasing or repealing
16 a local option gross receipts tax authorized by the Municipal
17 Local Option Gross Receipts Taxes Act shall also impose,
18 increase or repeal a tax for the privilege of using property
19 in the municipality if the use of the property is subject to
20 the compensating tax. The rate of the municipal tax on use
21 imposed, increased or repealed shall be the same as the rate
22 of the local option gross receipts tax imposed, increased or
23 repealed.

24 B. If, at the time this 2003 act becomes
25 effective, a municipality has in effect a local option gross

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1 receipts tax authorized by the Municipal Local Option Gross
2 Receipts Taxes Act, a municipal tax on use is hereby imposed
3 at the same rate, effective on the effective date of this
4 2003 act.

5 C. The municipal taxes on use authorized or
6 imposed by this section may be referred to generally as
7 "municipal local option compensating taxes". Each tax may be
8 referred to individually by reference to the local option
9 gross receipts tax with which it is associated. "

10 Section 47. Section 7-19D-7 NMSA 1978 (being Laws 1993,
11 Chapter 346, Section 7, as amended) is amended to read:

12 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
13 PROCEEDS--DEDUCTIONS. --

14 A. The department shall collect each local option
15 gross receipts tax imposed pursuant to the provisions of the
16 Municipal Local Option Gross Receipts Taxes Act in the same
17 manner and at the same time it collects the state gross
18 receipts tax. The department shall collect the municipal
19 local option compensating taxes imposed pursuant to the
20 provisions of the Municipal Local Option Gross Receipts Taxes
21 Act in the same manner and at the same time it collects the
22 compensating tax.

23 B. Except as provided in Subsection C of this
24 section, the department shall withhold an administrative fee
25 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.

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1 The department shall transfer to each municipality for which
2 it is collecting a local option gross receipts tax pursuant
3 to the provisions of the Municipal Local Option Gross
4 Receipts Taxes Act the amount of each tax collected for that
5 municipality, less the administrative fee withheld and less
6 any disbursements for tax credits, refunds and the payment of
7 interest applicable to the tax. The department shall
8 transfer to each municipality for which it collects a
9 municipal local option compensating tax pursuant to the
10 provisions of the Municipal Local Option Gross Receipts Taxes
11 Act the amount of each tax collected for that municipality,
12 less any disbursements for tax credits, refunds and payment
13 of interest applicable to the tax. The transfer to the
14 municipality shall be made within the month following the
15 month in which the tax is collected.

16 C. With respect to the municipal gross receipts
17 tax imposed by a municipality pursuant to Section 7-19D-9
18 NMSA 1978, the department shall withhold the administrative
19 fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
20 1978 only on that portion of the municipal gross receipts tax
21 arising from a municipal gross receipts tax rate in excess of
22 one-half [~~of one~~] percent. "

23 Section 48. A new section of the Local Hospital Gross
24 Receipts Tax Act is enacted to read:

25 "[NEW MATERIAL] MATCHING LOCAL HOSPITAL COMPENSATING

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1 TAX. -- An ordinance imposing, increasing or repealing a local
2 hospital gross receipts tax authorized by the Local Hospital
3 Gross Receipts Tax Act shall also impose, increase or repeal
4 a tax for the privilege of using property in the county if
5 the use of the property is subject to the compensating tax.
6 This tax may be referred to as the "local hospital
7 compensating tax". The rate of the local hospital
8 compensating tax imposed, increased or repealed shall be the
9 same as the rate of local hospital gross receipts tax
10 imposed, increased or repealed. If, at the time this 2003
11 act becomes effective, a county has in effect a local
12 hospital gross receipts tax, a local hospital compensating
13 tax is hereby imposed at the same rate, effective on the
14 effective date of this 2003 act. "

15 Section 49. Section 7-20C-6 NMSA 1978 (being Laws 1991,
16 Chapter 176, Section 6, as amended) is amended to read:

17 "7-20C-6. COLLECTION BY DEPARTMENT-- TRANSFER OF
18 PROCEEDS-- DEDUCTIONS. --

19 A. The department shall collect the local
20 hospital gross receipts tax in the same manner and at the
21 same time it collects the state gross receipts tax. The
22 department shall collect the local hospital compensating tax
23 in the same manner and at the same time it collects the
24 compensating tax.

25 B. The department shall withhold an

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1 administrative fee pursuant to Section 7-1-6.41 NMSA 1978.
2 Except as provided in Subsection C of this section, the
3 department shall transfer to each county for which it is
4 collecting such tax the amount of the tax collected less the
5 administrative fee withheld and less any disbursements for
6 tax credits, refunds and the payment of interest applicable
7 to the tax. The department shall transfer to each county for
8 which it is collecting the local hospital compensating tax
9 the amount of the tax collected less any disbursements for
10 tax credits, refunds and the payment of interest applicable
11 to the tax. Transfer [~~of the tax~~] to a county shall be made
12 within the month following the month in which the tax is
13 collected.

14 C. In lieu of a transfer pursuant to Subsection B
15 of this section to a class B county with a population, as
16 shown in the last federal decennial census, of more than
17 twenty-five thousand and a net taxable value in the 2002
18 property tax year of less than two hundred million dollars
19 (\$200,000,000), the department shall make the transfer to the
20 largest municipality in that county for the purpose of
21 maintaining and operating a hospital. "

22 Section 50. A new section of the County Local Option
23 Gross Receipts Taxes Act is enacted to read:

24 " [NEW MATERIAL] MATCHING LOCAL OPTION COMPENSATING
25 TAX. --

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1 A. An ordinance imposing, increasing or repealing
2 a local option gross receipts tax authorized by the County
3 Local Option Gross Receipts Taxes Act to be imposed on a
4 county-wide basis shall also impose, increase or repeal a tax
5 for the privilege of using property in the county if the use
6 of the property is subject to the compensating tax. The rate
7 of county tax on use imposed, increased or repealed shall be
8 the same as the rate of the local option gross receipts tax
9 imposed, increased or repealed.

10 B. An ordinance imposing, increasing or repealing
11 a local option gross receipts tax authorized by the County
12 Local Option Gross Receipts Taxes Act to be imposed only in
13 the county area shall also impose, increase or repeal a tax
14 for the privilege of using property in the county area if the
15 use of the property is subject to the compensating tax and if
16 the department is not prohibited pursuant to Section 7-9-7.1
17 NMSA 1978 from collecting the compensating tax on the use.
18 The rate of county area tax on use imposed, increased or
19 repealed shall be the same as the rate of the local option
20 gross receipts tax imposed, increased or repealed.

21 C. If, at the time this 2003 act becomes
22 effective, a county has in effect a local option gross
23 receipts tax authorized to be imposed on a county-wide basis,
24 a county tax on use of property in the county is hereby
25 imposed at the same rate, effective on the effective date of

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1 this 2003 act. If, at the time this 2003 act becomes
2 effective, a county has in effect a local option gross
3 receipts tax authorized to be imposed only in the county
4 area, a county tax on use of property in the county area is
5 hereby imposed at the same rate, effective on the effective
6 date of this 2003 act.

7 D. The county taxes on use authorized or imposed
8 by this section may be referred to generally as "county local
9 option compensating taxes". Each tax may be referred to
10 individually by reference to the local option gross receipts
11 tax with which it is associated."

12 Section 51. Section 7-20E-7 NMSA 1978 (being Laws 1993,
13 Chapter 354, Section 7, as amended) is amended to read:

14 "7-20E-7. COLLECTION BY DEPARTMENT-- TRANSFER OF
15 PROCEEDS-- DEDUCTIONS. --

16 A. The department shall collect each county local
17 option gross receipts tax imposed pursuant to the provisions
18 of the County Local Option Gross Receipts Taxes Act in the
19 same manner and at the same time it collects the state gross
20 receipts tax. The department shall collect each county local
21 option compensating tax imposed pursuant to the provisions of
22 the County Local Option Gross Receipts Taxes Act in the same
23 manner and at the same time it collects the compensating tax.

24 B. The department shall withhold an
25 administrative fee pursuant to Section [~~1 of this 1997 act~~]

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1 7-1-6.41 NMSA 1978. The department shall transfer to each
2 county for which it is collecting a county local option gross
3 receipts tax pursuant to the provisions of the County Local
4 Option Gross Receipts Taxes Act the amount of each county
5 local option gross receipts tax collected for that county,
6 less the administrative fee withheld and less any
7 disbursements for tax credits, refunds and the payment of
8 interest applicable to the tax. The department shall
9 transfer to each county for which it is collecting a county
10 local option compensating tax pursuant to the provisions of
11 the County Local Option Gross Receipts Taxes Act the amount
12 of each local option compensating tax collected for that
13 county, less any disbursements for tax credits, refunds and
14 the payment of interest applicable to the tax. The transfer
15 to the county shall be made within the month following the
16 month in which the tax is collected. "

17 Section 52. Section 7-20F-3 NMSA 1978 (being Laws 1993,
18 Chapter 303, Section 3, as amended) is amended to read:

19 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
20 TAX--COUNTY CORRECTIONAL FACILITY COMPENSATING TAX--AUTHORITY
21 TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--REFERENDUM --

22 A. The majority of the members elected to the
23 county board may enact an ordinance imposing on a county-wide
24 basis an excise tax not to exceed a rate of one-eighth [of
25 ~~one~~] percent of the gross receipts of any person engaging in

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1 business in the county, including all municipalities within
2 the county; provided that the voters of:

3 (1) a class A county described in Paragraph
4 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B
5 county described in Paragraph (2) of Subsection A of Section
6 7-20F-2 NMSA 1978 have approved the issuance of general
7 obligation bonds of the county sufficient to pay at least
8 one-half of the costs of the construction and equipping of
9 the new county judicial-correctional facility for which the
10 county correctional facility gross receipts tax revenue is
11 dedicated; or

12 (2) a class B county described in Paragraph
13 (3) of Subsection A of Section 7-20F-2 NMSA 1978 have
14 approved the issuance of bonds by the New Mexico finance
15 authority sufficient to pay at least one-half of the costs of
16 designing, constructing, equipping, furnishing and otherwise
17 improving the new county correctional facility for which the
18 county correctional facility gross receipts tax revenue is
19 dedicated.

20 B. The tax imposed pursuant to Subsection A of
21 this section may be referred to as the "county correctional
22 facility gross receipts tax". The county correctional
23 facility gross receipts tax shall be imposed only once for
24 the period necessary for payment of the principal and
25 interest on revenue bonds issued pursuant to the County

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1 Correctional Facility Gross Receipts Tax Act, but the period
2 shall not exceed ten years from the effective date of the
3 ordinance imposing the tax.

4 C. An ordinance imposing a county correctional
5 facility gross receipts tax shall also impose a tax on the
6 use of property in the county if the use of the property is
7 subject to the compensating tax. This tax may be referred to
8 as the "county correctional facility compensating tax". The
9 rate of the county correctional facility compensating tax
10 imposed shall be the same as the rate of county correctional
11 facility gross receipts tax imposed. If, at the time this
12 2003 act becomes effective, a county has in effect a county
13 correctional facility gross receipts tax, a county
14 correctional facility compensating tax is hereby imposed at
15 the same rate, effective on the effective date of this 2003
16 act.

17 [~~C.-~~] D. Any ordinance imposing a county
18 correctional facility gross receipts tax and county
19 correctional facility compensating tax pursuant to this
20 section shall:

21 (1) impose the tax in any number of
22 increments of one-sixteenth [~~of one~~] percent not to exceed an
23 aggregate amount of one-eighth [~~of one~~] percent; provided
24 that the rate of the two taxes is the same;

25 (2) specify that the imposition of the tax

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1 will begin on either July 1 or January 1, whichever occurs
2 first after the expiration of at least three months from the
3 date that the department is notified personally or by mail by
4 the county that imposition of the county correctional
5 facility gross receipts tax and county correctional facility
6 compensating tax has been approved by a majority of the
7 registered voters in the county voting on the question; and

8 (3) dedicate the revenue from the county
9 correctional facility gross receipts tax and county
10 correctional facility compensating tax for the purpose of
11 constructing, purchasing, furnishing, equipping,
12 rehabilitating, expanding or improving a judicial-
13 correctional or a county correctional facility or the grounds
14 of a judicial-correctional or county correctional facility,
15 including [~~but not limited to~~] acquiring and improving
16 parking lots, landscaping or any combination of the foregoing
17 or to payment of principal and interest on revenue bonds or
18 refunding bonds issued pursuant to the provisions of the
19 County Correctional Facility Gross Receipts Tax Act.

20 [~~D.~~] E. An ordinance imposing a county
21 correctional facility gross receipts tax and county
22 correctional facility compensating tax pursuant to this
23 section shall not become effective until after an election is
24 held and a simple majority of the qualified electors of the
25 county voting in the election votes in favor of imposing the

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1 tax.

2 [E-] F. The [~~governing body~~] county board shall
3 adopt a resolution calling for an election within
4 seventy-five days of the date the ordinance is adopted on the
5 question of imposing the [~~tax~~] taxes and:

6 (1) in a class A county described in
7 Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or
8 a class B county described in Paragraph (2) of Subsection A
9 of Section 7-20F-2 NMSA 1978, if a property tax at a rate
10 necessary to comply with the provisions of Subsection A of
11 this section has not been approved by the voters of the
12 county, the question submitted to the voters shall be the
13 question of imposing a county correctional facility gross
14 receipts tax, a county correctional facility compensating tax
15 and a property tax at a rate necessary for the issuance of
16 general obligation bonds of the county sufficient to comply
17 with the provisions of the County Correctional Facility Gross
18 Receipts Tax Act; or

19 (2) in a class B county described in
20 Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978,
21 the question to be submitted to the voters is "Shall a county
22 correctional facility gross receipts tax and a county
23 correctional facility compensating tax be imposed to repay
24 bonds that will be issued by the New Mexico finance authority
25 in an amount sufficient to pay at least one-half of the costs

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1 of designing, constructing, equipping, furnishing and
2 otherwise improving the new county correctional facility?".

3 [~~F-~~] G. The question shall be submitted to the
4 voters at any general election or special election called for
5 that purpose by the county board.

6 [~~G-~~] H. The election upon the question shall be
7 called, held, conducted and canvassed in substantially the
8 same manner as may be provided by law for general elections.

9 [~~H-~~] I. If the question of imposing the county
10 correctional facility gross receipts tax and a property tax,
11 if the question includes a property tax, fails, the board
12 shall not again propose imposition of a county correctional
13 facility gross receipts tax for a period of one year after
14 the election.

15 [~~I-~~] J. Revenue produced by the imposition of a
16 county correctional facility gross receipts tax and a county
17 correctional facility compensating tax that is in excess of
18 the annual principal and interest due on bonds secured by a
19 pledge of the county correctional facility gross receipts tax
20 and the county correctional facility compensating tax may be
21 accumulated in a debt service reserve account until an amount
22 equal to the maximum amount permitted pursuant to the
23 provisions of the United States treasury regulations is
24 accumulated in the debt service reserve account. After the
25 debt service reserve account requirements have been met, the

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1 excess revenue shall be accumulated in an extraordinary
2 mandatory redemption fund and annually used to redeem the
3 bonds prior to their stated maturity date.

4 [J-] K. When all outstanding bonds have been
5 paid, whether from the debt service reserve, the redemption
6 fund or maturity, the ordinance shall be repealed if the
7 [~~county correctional facility gross receipts tax~~] revenue
8 from the county correctional facility gross receipts tax and
9 county correctional facility compensating tax is no longer
10 required for the purposes for which it may be used pursuant
11 to the provisions of the County Correctional Facility Gross
12 Receipts Tax Act.

13 [K-] L. The repeal of an ordinance imposing a
14 county correctional facility gross receipts tax and a county
15 correctional facility compensating tax shall state that the
16 repeal shall be effective on January 1 or July 1, whichever
17 occurs first following the date the department is notified
18 personally or by mail by the county of the repeal. "

19 Section 53. Section 7-20F-5 NMSA 1978 (being Laws 1993,
20 Chapter 303, Section 5) is amended to read:

21 "7-20F-5. COLLECTION BY DEPARTMENT-- TRANSFER OF
22 PROCEEDS-- DEDUCTIONS. --

23 A. The department shall collect the county
24 correctional facility gross receipts tax in the same manner
25 and at the same time it collects the state gross receipts

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1 tax. The department shall collect the county correctional
2 facility compensating tax in the same manner and at the same
3 time it collects the compensating tax.

4 B. The department shall remit to each county for
5 which it is collecting a county correctional facility gross
6 receipts tax and a county correctional facility compensating
7 tax the amount of the [~~tax~~] taxes collected, less any
8 disbursement for tax credits, refunds and the payment of
9 interest applicable to the [~~county correctional facility~~
10 ~~gross receipts tax~~] taxes. Transfer [~~of the tax~~] to a county
11 shall be made within the month following the month in which
12 the [~~tax is~~] taxes are collected."

13 Section 54. Section 7-20F-7 NMSA 1978 (being Laws 1993,
14 Chapter 303, Section 7) is amended to read:

15 "7-20F-7. REVENUE BONDS--AUTHORITY TO ISSUE--ORDINANCE
16 AUTHORIZING ISSUE--PLEDGE OF REVENUE.--

17 A. In addition to any other law authorizing a
18 county to issue revenue bonds, a county may issue revenue
19 bonds pursuant to the County Correctional Facility Gross
20 Receipts Tax Act for the purposes specified in that act.
21 Revenue bonds issued pursuant to the County Correctional
22 Facility Gross Receipts Tax Act may be referred to as "county
23 correctional facility gross receipts tax revenue bonds".

24 B. A county board, by majority vote, may adopt an
25 ordinance providing for issuance of revenue bonds pursuant to

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1 the provisions of the County Correctional Facility Gross
2 Receipts Tax Act, the principal and interest of which shall
3 be paid from the revenue derived by the county from the
4 county correctional facility gross receipts tax, the county
5 correctional facility compensating tax and any other revenue
6 that the county may dedicate to the payment of the revenue
7 bonds.

8 C. Revenue bonds or refunding revenue bonds
9 issued as authorized pursuant to the County Correctional
10 Facility Gross Receipts Tax Act are:

11 (1) not general obligations of the county;
12 and

13 (2) collectible only from the county
14 correctional facility gross receipts tax, the county
15 correctional facility compensating tax and, if authorized,
16 other properly pledged revenues, and each bond shall be
17 payable solely from the properly pledged revenues and the
18 bondholders shall not look to any other county fund for the
19 payment of the interest and principal of the bonds. "

20 Section 55. Section 7-31-4 NMSA 1978 (being Laws 1959,
21 Chapter 54, Section 4, as amended) is amended to read:

22 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
23 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
24 LIABILITY.--

25 A. There is levied and shall be collected by the

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1 department a privilege tax on the business of every person
2 severing products in this state. The measure of the tax
3 shall be:

4 (1) on oil and on oil and other liquid
5 hydrocarbons removed from natural gas at or near the
6 wellhead, except as provided in Paragraphs (4) and (5) of
7 this subsection, [~~three and fifteen hundredths~~] four percent
8 of the taxable value determined pursuant to Section 7-31-5
9 NMSA 1978;

10 (2) on carbon dioxide, [~~three and fifteen~~
11 ~~hundredths~~] four percent of the taxable value determined
12 pursuant to Section 7-31-5 NMSA 1978;

13 (3) on natural gas, except as provided in
14 Paragraphs (6) and (7) of this subsection, four percent of
15 the taxable value determined pursuant to Section 7-31-5 NMSA
16 1978;

17 (4) on the oil and on other liquid
18 hydrocarbons removed from natural gas at or near the wellhead
19 from a stripper well property, [~~one and fifty eight~~
20 ~~hundredths~~] two percent of the taxable value determined
21 pursuant to Section 7-31-5 NMSA 1978; provided that the
22 average annual taxable value of oil was equal to or less than
23 fifteen dollars (\$15.00) per barrel in the calendar year
24 preceding July 1 of the fiscal year in which the tax rate is
25 to be imposed;

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1 (5) on the oil and on other liquid
2 hydrocarbons removed from natural gas at or near the wellhead
3 from a stripper well property, [~~two and thirty six~~
4 ~~hundredths~~] three percent of the taxable value determined
5 pursuant to Section 7-31-5 NMSA 1978; provided that the
6 average annual taxable value of oil was greater than fifteen
7 dollars (\$15.00) per barrel but not more than eighteen
8 dollars (\$18.00) per barrel in the calendar year preceding
9 July 1 of the fiscal year in which the tax rate is to be
10 imposed;

11 (6) on the natural gas removed from a
12 stripper well property, two percent of the taxable value
13 determined pursuant to Section 7-31-5 NMSA 1978; provided
14 that the average annual taxable value of natural gas was
15 equal to or less than one dollar fifteen cents (\$1.15) per
16 thousand cubic feet in the calendar year preceding July 1 of
17 the fiscal year in which the tax rate is to be imposed; and

18 (7) on the natural gas removed from a
19 stripper well property, three percent of the taxable value
20 determined pursuant to Section 7-31-5 NMSA 1978; provided
21 that the average annual taxable value of natural gas was
22 greater than one dollar fifteen cents (\$1.15) per thousand
23 cubic feet but not more than one dollar thirty-five cents
24 (\$1.35) per thousand cubic feet in the calendar year
25 preceding July 1 of the fiscal year in which the tax rate is

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1 to be imposed.

2 B. Every interest owner, for the purpose of
3 levying this tax, is deemed to be in the business of severing
4 products and is liable for this tax to the extent of his
5 interest in the value of the products or to the extent of his
6 interest as may be measured by the value of the products.

7 C. Any Indian tribe, Indian pueblo or Indian is
8 liable for this tax to the extent authorized or permitted by
9 law. "

10 Section 56. Section 9-11-6.2 NMSA 1978 (being Laws
11 1995, Chapter 31, Section 3) is amended to read:

12 "9-11-6.2. ADMINISTRATIVE REGULATIONS, RULINGS,
13 INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS.--

14 A. The secretary is empowered and directed to
15 issue and file as required by law all regulations, rulings,
16 instructions or orders necessary to implement and enforce any
17 provision of any law the administration and enforcement of
18 which the department, the secretary, any division of the
19 department or any director of any division of the department
20 is charged, including all rules and regulations necessary by
21 reason of any alteration of any such law. In order to
22 accomplish its purpose, this provision is to be liberally
23 construed.

24 B. Directives issued by the secretary shall be in
25 form substantially as follows:

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1 (1) regulations shall be written statements
2 of the secretary of general application, interpreting and
3 exemplifying or implementing the ~~[statues]~~ statutes to which
4 they relate and may be issued in response to a request from a
5 taxpayer or other interested party;

6 (2) rulings shall be written statements of
7 the secretary, of limited application to one or a small
8 number of persons, interpreting the statutes to which they
9 relate, ordinarily issued in response to a request for
10 clarification of the consequences of a specified set of
11 circumstances;

12 (3) orders shall be written statements of
13 the secretary or a hearing officer or other delegate of the
14 secretary to implement a decision after a hearing; and

15 (4) instructions shall be other written
16 statements or directives of the secretary or secretary's
17 delegate not dealing with the merits of any law but otherwise
18 in aid of the accomplishment of the duties of the secretary.

19 C. To be effective, any ruling or regulation
20 issued by the secretary shall be reviewed by the attorney
21 general or other legal counsel of the department prior to
22 being filed as required by law, and the fact of the review
23 shall be indicated on the ruling or regulation.

24 D. To be effective, a regulation shall first be
25 issued as a proposed regulation and filed for public

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1 inspection in the office of the secretary. Unless otherwise
2 provided by statute, no regulation affecting any person or
3 agency outside the department shall be adopted, amended or
4 repealed without a public hearing on the proposed action
5 before the secretary or a hearing officer designated by the
6 secretary. The public hearing shall be held in Santa Fe
7 unless otherwise permitted by statute. Notice of the subject
8 matter of the regulation, the action proposed to be taken,
9 the time and place of the hearing, the manner in which
10 interested parties may present their views and the method by
11 which copies of the proposed regulation, proposed amendment
12 or repeal of an existing regulation may be obtained shall be
13 published at least thirty days prior to the hearing date in
14 [a] the New Mexico register and mailed at least thirty days
15 prior to the hearing date to all persons who have made a
16 written request for advance notice of hearing. After the
17 proposed regulation has been on file for not less than sixty
18 days and a public hearing on the proposed action has been
19 held by the secretary or a hearing officer designated by the
20 secretary, the secretary may issue it as a final regulation
21 by signing the regulation and filing the regulation in the
22 manner required by law. The secretary shall not delegate the
23 authority to sign regulations.

24 E. In addition to filing copies of regulations
25 with the state records center as required by law, the

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1 secretary shall maintain in the office of the secretary a
2 duplicate official set of current and superseded regulations,
3 a set of current and superseded rulings and such additional
4 sets of those regulations and rulings as appear necessary,
5 which duplicate or additional sets shall be available for
6 inspection by the public, but superseded regulations need be
7 maintained for no longer than ten years from the date of
8 supersession.

9 F. The secretary shall develop and maintain a
10 file of names and addresses of individuals and professional
11 and industry groups having an interest in the promulgation of
12 new, revised or proposed regulations. At convenient times,
13 the secretary shall distribute to these persons all such
14 regulations and all pertinent rulings, making such charges as
15 will defray the expense incurred in their physical
16 preparation and mailing. Such charges are appropriated to
17 the department to defray the costs of preparing and
18 distributing regulations and rulings.

19 G. Any regulation, ruling, instruction or order
20 issued by the secretary or order or instruction issued by a
21 hearing officer or other delegate of the secretary is
22 presumed to be a proper implementation of the provisions of
23 the laws that are charged to the department, the secretary,
24 any division of the department or any director of any
25 division of the department.

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1 H. The extent to which regulations, rulings and
2 orders will have retroactive effect shall be stated and, if
3 no such statement is made, they will be applied prospectively
4 only. "

5 Section 57. Section 60-2A-23 NMSA 1978 (being Laws
6 1980, Chapter 90, Section 23, as amended) is amended to read:

7 "60-2A-23. [~~PRIVILEGE TAX~~] REGULATORY FEES ON
8 PROMOTIONS. --

9 A. In addition to any other taxes or fees
10 provided by law, there is imposed upon every promoter for the
11 privilege of promoting a professional [~~contests~~] contest a
12 [~~tax at the rate of~~] regulatory fee in an amount determined
13 pursuant to the rules of the commission to be sufficient to
14 cover the costs of regulating the contest; provided that the
15 fee may not exceed four percent of the total gross receipts
16 of any professional contest conducted live in New Mexico.

17 B. The commission shall adopt rules and
18 regulations for the administration, collection and
19 enforcement of the [~~tax~~] fee imposed [~~in~~] pursuant to this
20 section.

21 C. As used in this section, "total gross receipts
22 of any professional contest" includes:

23 (1) the gross price charged for the sale,
24 lease or other exploitation of broadcasting, television or
25 motion picture rights of [~~such~~] the professional contest

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1 without any deductions for commissions, brokerage fees,
2 distribution fees, advertising or other expenses or charges;

3 (2) the face value of all tickets sold and
4 complimentary tickets issued; and

5 (3) any sums received as consideration for
6 holding a professional contest at a particular location."

7 Section 58. Section 60-2A-24 NMSA 1978 (being Laws
8 1980, Chapter 90, Section 24) is amended to read:

9 "60-2A-24. ATHLETIC COMMISSION FUND. --The proceeds of
10 the [~~privilege tax~~] regulatory fee on promotions and of the
11 [~~privilege tax~~] supervisory fee on closed-circuit television
12 or motion pictures, together with any license fees or other
13 fees authorized [~~under~~] pursuant to the Professional Athletic
14 Competition Act, shall be deposited with the state treasurer
15 to the credit of the "athletic commission fund", which is
16 hereby created. Expenditures from the athletic commission
17 fund shall only be made on vouchers issued and signed by the
18 person designated by the commission upon warrants drawn by
19 the department of finance and administration in accordance
20 with the budget approved by the department of finance and
21 administration."

22 Section 59. Section 60-2A-25 NMSA 1978 (being Laws
23 1980, Chapter 90, Section 25) is amended to read:

24 "60-2A-25. TIME OF PAYMENT OF [~~PRIVILEGE TAX~~]
25 REGULATORY FEE. --

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1 A. Any person upon whom the [~~privilege tax~~]
2 regulatory fee is imposed [~~by~~] pursuant to Section [~~23 of the~~
3 ~~Professional Athletic Competition Act~~] 60-2A-23 NMSA 1978
4 shall, within seventy-two hours after the completion of any
5 professional contest for which an admission fee is charged
6 and received or a contribution is requested and received,
7 furnish to the commission a written report on forms
8 prescribed by the commission showing:

9 (1) the number of tickets sold and issued or
10 sold or issued for [~~such~~] the professional contest;

11 (2) the amount of the gross receipts or
12 value thereof;

13 (3) the amount of gross receipts derived
14 from the sale, lease or other exploitation of broadcasting,
15 motion picture or television rights of [~~such~~] the
16 professional contest, [~~and~~] without any deductions for
17 commissions, brokerage fees, distribution fees, advertising
18 or any other expenses or charges; and

19 (4) such other matters as the commission may
20 prescribe.

21 B. The commission or any of its authorized
22 employees may inspect the books, ticket stubs or any other
23 data necessary for the proper enforcement of the [~~privilege~~
24 ~~tax~~] regulatory fee and supervisory fee imposed [in] pursuant
25 to the Professional Athletic Competition Act. "

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1 Section 60. Section 60-2A-26 NMSA 1978 (being Laws
2 1980, Chapter 90, Section 26, as amended) is amended to read:

3 "60-2A-26. [~~PRIVILEGE TAX~~] SUPERVISORY FEE ON CLOSED-
4 CIRCUIT TELECASTS OR MOTION PICTURES--REPORT TO COMMISSION. --

5 A. Any person who charges and receives an
6 admission fee for exhibiting any live professional contest on
7 a closed-circuit telecast or motion picture shall, within
8 seventy-two hours after the event, furnish to the commission
9 a verified written report on a form prescribed by the
10 commission showing the number of tickets sold and issued or
11 sold or issued and the gross receipts for the exhibition
12 without any deductions.

13 B. There is imposed a [~~tax~~] supervisory fee upon
14 the privilege of exhibiting for an admission fee any live
15 professional contest [~~except a live professional boxing~~
16 ~~contest held in New Mexico between the effective date of this~~
17 ~~1997 act and July 1, 1999] on a closed-circuit telecast or
18 motion picture. [~~The rate of the tax imposed is~~] A
19 supervisory fee is imposed in an amount determined pursuant
20 to the rules of the commission to be sufficient to cover the
21 costs of supervising the exhibition; provided that the fee
22 may not exceed five percent of the gross receipts derived
23 from the exhibition.~~

24 C. The [~~privilege tax~~] fee imposed [~~in~~] pursuant
25 to this section shall be administered, collected, enforced

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1 and the proceeds deposited as provided in Section 60-2A-24
2 NMSA 1978. "

3 Section 61. Section 60-2A-27 NMSA 1978 (being Laws
4 1980, Chapter 90, Section 27) is amended to read:

5 "60-2A-27. PENALTY--NONPAYMENT OF FEE. --Any person who
6 willfully attempts to evade or defeat any [~~tax~~] regulatory or
7 supervisory fee or the payment thereof imposed [~~by~~] pursuant
8 to the Professional Athletic Competition Act is guilty of a
9 fourth degree felony. "

10 Section 62. Section 60-2A-28 NMSA 1978 (being Laws
11 1980, Chapter 90, Section 28) is amended to read:

12 "60-2A-28. CIVIL PENALTY. --In the case of failure due
13 to negligence or disregard of rules and regulations of the
14 commission, but without intent to defraud, to pay when due
15 any amount of [~~tax~~] regulatory or supervisory fee required to
16 be paid by the Professional Athletic Competition Act, there
17 shall be added to the amount two percent per month or a
18 fraction [~~thereof~~] of a month from the date the tax was due
19 or from the date the report was required to be filed, not to
20 exceed ten percent [~~thereof~~] of the fee due. "

21 Section 63. A new section of the Professional Athletic
22 Competition Act is enacted to read:

23 "[NEW MATERIAL] COOPERATIVE AGREEMENTS WITH TRIBAL
24 GOVERNMENTS. --

25 A. The commission may enter into a cooperative

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1 agreement with an Indian nation, tribe or pueblo whose tribal
2 lands lie wholly or partly in New Mexico for the exchange of
3 information and for the reciprocal, joint or common
4 direction, management or control of professional contests
5 conducted, held or given in New Mexico. To be effective, an
6 agreement must be signed by the governor of this state.

7 B. Money collected by the commission on behalf of
8 an Indian nation, tribe or pueblo in accordance with an
9 agreement entered into pursuant to this section is not money
10 of this state and shall be collected and disbursed in
11 accordance with the terms of the agreement, notwithstanding
12 any other provision of law.

13 C. Nothing in an agreement entered into pursuant
14 to this section shall be construed as an assertion or an
15 admission by either this state or by the Indian nation, tribe
16 or pueblo that the fees of one have precedence over the fees
17 of the other when the person, event or transaction is subject
18 to the jurisdiction of both governments. An agreement
19 entered into pursuant to this section shall be construed
20 solely as an agreement between the two party governments and
21 shall not alter or affect the government-to-government
22 relations between this state and any other Indian nation,
23 tribe or pueblo. "

24 Section 64. Section 66-3-3.1 NMSA 1978 (being Laws
25 1992, Chapter 106, Section 7, as amended) is amended to read:

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1 "66-3-3.1. TAX IDENTIFICATION CARD. --The department
2 shall implement a system for identifying motor carriers
3 subject to the weight distance tax and special fuel user
4 permit requirements, including an identifying number for each
5 motor carrier covered by the system. Annually, the
6 department shall issue [~~a tax identification card in~~] one or
7 more [~~copies to~~] original tax identification cards sufficient
8 for the number of vehicles specified by each motor carrier
9 who applies for a tax identification card; provided that [~~the~~
10 ~~card shall be renewed automatically each year as long as~~] the
11 motor carrier continues to be subject to and in compliance
12 with the weight distance tax and special fuel user permit
13 requirements. The tax identification card shall contain the
14 department's identifying number for the motor carrier and
15 [~~such~~] other information [~~as~~] that the department deems
16 necessary. "

17 Section 65. Section 66-6-1 NMSA 1978 (being Laws 1978,
18 Chapter 35, Section 336, as amended) is amended to read:

19 "66-6-1. MOTORCYCLES--REGISTRATION FEES. --

20 A. For the registration of motorcycles, the
21 department shall collect the following fees for a twelve-
22 month registration period:

23 (1) for a motorcycle having not more than
24 two wheels in contact with the ground, [~~eleven dollars~~
25 (~~\$11.00~~)] fifteen dollars (\$15.00); and

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1 (2) for a motorcycle having three wheels in
2 contact with the ground or having a sidecar, [~~eleven dollars~~
3 ~~(\$11.00)] fifteen dollars (\$15.00).~~

4 B. In addition to other fees required by this
5 section, the department shall collect for each motorcycle an
6 annual tire recycling fee of one dollar (\$1.00) for a twelve-
7 month registration period. "

8 Section 66. Section 66-6-2 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 337, as amended) is amended to read:

10 "66-6-2. PASSENGER VEHICLES--REGISTRATION FEES. -- For
11 the registration of motor vehicles other than motorcycles,
12 trucks, buses and tractors, the division shall collect the
13 following fees for each twelve-month registration period:

14 A. for a vehicle whose gross factory shipping
15 weight is not more than two thousand pounds, [~~twenty dollars~~
16 ~~(\$20.00)] twenty-seven dollars (\$27.00); provided, however,
17 that after five years of registration, calculated from the
18 date when the vehicle was first registered in this or another
19 state, the fee is [~~sixteen dollars (\$16.00)] twenty-one
20 dollars (\$21.00);~~~~

21 B. for a vehicle whose gross factory shipping
22 weight is more than two thousand but not more than three
23 thousand pounds, [~~twenty-nine dollars (\$29.00)] thirty-nine
24 dollars (\$39.00); provided, however, that after five years of
25 registration, calculated from the date when the vehicle was~~

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1 first registered in this or another state, the fee is
2 [~~twenty-three dollars (\$23.00)~~] thirty-one dollars (\$31.00);

3 C. for a vehicle whose gross factory shipping
4 weight is more than three thousand pounds, [~~forty-two dollars~~
5 ~~(\$42.00)~~] fifty-six dollars (\$56.00); provided, however, that
6 after five years of registration, calculated from the date
7 when the vehicle was first registered in this or another
8 state, the fee is [~~thirty-four dollars (\$34.00)~~] forty-five
9 dollars (\$45.00); and

10 D. for a vehicle registered pursuant to the
11 provisions of this section, a tire recycling fee of one
12 dollar fifty cents (\$1.50). "

13 Section 67. Section 66-6-3 NMSA 1978 (being Laws 1978,
14 Chapter 35, Section 338, as amended) is amended to read:

15 "66-6-3. TRAILERS--REGISTRATION FEES. --

16 A. For the registration of freight trailers and
17 utility trailers, the following fees shall be collected:

18 (1) for the permanent registration or
19 reregistration of freight trailers, [~~ten dollars (\$10.00)~~]
20 thirteen dollars (\$13.00);

21 (2) for the annual registration of each
22 utility trailer not permanently registered, [~~five dollars~~
23 ~~(\$5.00) plus one dollar (\$1.00)~~] seven dollars (\$7.00) plus
24 one dollar (\$1.00) for each one hundred pounds or major
25 fraction thereof of actual empty weight over five hundred

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1 pounds actual empty weight; except that in the case of travel
2 trailers, actual empty weight shall be one-half of the gross
3 factory shipping weight or, if gross factory shipping weight
4 is not available, then actual empty weight shall be one-half
5 of actual gross vehicle weight; and

6 (3) for the permanent registration of
7 utility trailers not used in commerce that have a gross
8 vehicle weight of less than six thousand one pounds, [~~twenty-~~
9 ~~five dollars (\$25.00) plus five dollars (\$5.00)~~] thirty-three
10 dollars (\$33.00) plus seven dollars (\$7.00) for each one
11 hundred pounds or major fraction thereof of actual empty
12 weight over five hundred pounds actual empty weight; except
13 that in the case of travel trailers, actual empty weight
14 shall be one-half of the gross factory shipping weight or, if
15 gross factory shipping weight is not available, then actual
16 empty weight shall be one-half of actual gross vehicle weight
17 and for the reregistration of such utility trailers upon
18 their sale or transfer, [~~five dollars (\$5.00)~~] seven dollars
19 (\$7.00).

20 B. At the option of the owner of a fleet of fifty
21 or more utility trailers wishing to register them in New
22 Mexico, the [~~motor vehicle~~] division shall issue a
23 registration and registration plate for each trailer in the
24 fleet, the registration and registration plate to expire on
25 the last day of the final month of a five-year period.

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1 Registrations and registration plates shall be issued for
2 five years only if the owner of the trailers meets the
3 following requirements:

4 (1) application is made on forms prescribed
5 by the [~~motor vehicle~~] division and payment of the proper fee
6 is made;

7 (2) upon the option of the director,
8 presentation is made at the time of registration of a surety
9 bond, certificate of deposit or of other financial security;
10 and

11 (3) payment is made by the fleet owner of
12 all registration fees due each year prior to the expiration
13 date. If such fees are not paid, all registrations and
14 registration plates in the fleet shall be canceled."

15 Section 68. Section 66-6-4 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 339, as amended) is amended to read:

17 "66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS,
18 ROAD TRACTORS AND BUSES. --

19 A. Within their respective jurisdictions, the motor
20 vehicle division and the motor transportation division of the
21 department of public safety shall charge registration fees
22 for trucks, truck tractors, road tractors and buses, except
23 as otherwise provided by law, according to the schedule of
24 Subsection B of this section.

25 B. Declared Gross Weight Fee

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1	001 to 4,000	[\$30]	<u>\$ 40</u>
2	4,001 to 6,000	[41]	<u>55</u>
3	6,001 to 8,000	[52]	<u>69</u>
4	8,001 to 10,000	[63]	<u>84</u>
5	10,001 to 12,000	[74]	<u>99</u>
6	12,001 to 14,000	[85]	<u>113</u>
7	14,001 to 16,000	[96]	<u>128</u>
8	16,001 to 18,000	[107]	<u>143</u>
9	18,001 to 20,000	[118]	<u>157</u>
10	20,001 to 22,000	[129]	<u>172</u>
11	22,001 to 24,000	[140]	<u>187</u>
12	24,001 to 26,000	[151]	<u>201</u>
13	26,001 to 48,000	[88.50]	<u>118</u>
14	48,001 and over	[129.50]	<u>172.</u>

15 C. All trucks whose declared gross weight or whose
16 gross vehicle weight is less than twenty-six thousand pounds,
17 after five years of registration, calculated from the date
18 when the vehicle was first registered in this or another
19 state, shall be charged registration fees at eighty percent
20 of the rate set out in Subsection B of this section.

21 D. All trucks with a gross vehicle weight of more
22 than twenty-six thousand pounds and all truck tractors and
23 road tractors used to tow freight trailers shall be
24 registered on the basis of combination gross vehicle weight.

25 E. All trucks with a gross vehicle weight of

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1 twenty-six thousand pounds or less shall be registered on the
2 basis of gross vehicle weight. A trailer, semitrailer or
3 pole trailer towed by a truck of such gross vehicle weight
4 shall be classified as a utility trailer for registration
5 purposes unless otherwise provided by law.

6 F. All farm vehicles having a declared gross weight
7 of more than six thousand pounds shall be charged
8 registration fees of two-thirds of the rate of the respective
9 fees provided in this section and shall be issued distinctive
10 registration plates. "Farm vehicle" means ~~any~~ a vehicle
11 owned by a person whose principal occupation is farming or
12 ranching and which vehicle is used principally in the
13 transportation of farm and ranch products to market and farm
14 and ranch supplies and livestock from the place of purchase
15 to farms and ranches in this state; provided that the vehicle
16 is not used for hire.

17 G. In addition to other registration fees imposed
18 by this section, beginning July 1, 1994, there is imposed at
19 the time of registration an annual tire recycling fee of one
20 dollar fifty cents (\$1.50) on each vehicle subject to a
21 registration fee pursuant to this section, except for
22 vehicles with a declared gross weight of greater than twenty-
23 six thousand pounds upon which registration fees are imposed
24 by Subsection B of this section.

25 H. ~~Four~~ Three percent of registration fees of

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1 trucks having from twenty-six thousand one pounds to forty-
2 eight thousand pounds declared gross vehicle weight is to be
3 transferred to the tire recycling fund pursuant to the
4 provisions of Section 66-6-23 NMSA 1978.

5 I. [~~Five~~] Three and seventy-five hundredths percent
6 of registration fees of trucks in excess of forty-eight
7 thousand pounds declared gross vehicle weight is to be
8 transferred to the tire recycling fund pursuant to the
9 provisions of Section 66-6-23 NMSA 1978. "

10 Section 69. Section 66-6-5 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 340, as amended) is amended to read:

12 "66-6-5. BUS REGISTRATION FEES. --All buses shall pay
13 the registration fees provided in Section 66-6-4 NMSA 1978,
14 except for school buses and buses operated by religious or
15 nonprofit charitable organizations for the express purpose of
16 the organization for which the annual registration fee is
17 [~~five dollars (\$5.00)~~] seven dollars (\$7.00). In addition to
18 other registration fees imposed by this section, beginning
19 July 1, 1994, there is imposed at the time of registration an
20 annual tire recycling fee of fifty cents (\$.50) per wheel
21 that is in contact with the ground on each vehicle subject to
22 a registration fee pursuant to this section. "

23 Section 70. Section 66-6-8 NMSA 1978 (being Laws 1978,
24 Chapter 35, Section 343, as amended) is amended to read:

25 "66-6-8. BUS REGISTRATION-- AGRICULTURAL LABOR FEES. --

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1 A. A bus that has a normal seating capacity of
2 forty passengers or less and that is used exclusively for the
3 transportation of agricultural laborers may be registered
4 upon payment to the division of a fee of [~~twenty-five dollars~~
5 ~~(\$25.00)~~] thirty-three dollars (\$33.00).

6 B. In addition to the registration fee imposed by
7 this section, there is imposed at the time of registration an
8 annual tire recycling fee of fifty cents (\$.50) per wheel
9 that is in contact with the ground on each vehicle subject to
10 a registration fee pursuant to this section.

11 C. Application for registration of a bus [~~under~~
12 pursuant to] this section shall be made in the form prescribed
13 by the division and shall be accompanied by an affidavit that
14 the bus will be used exclusively for the transportation of
15 agricultural laborers. Upon registration, the bus is exempt
16 from tariff-filing requirements of the public regulation
17 commission. "

18 Section 71. Section 66-6-9 NMSA 1978 (being Laws 1978,
19 Chapter 35, Section 344) is amended to read:

20 "66-6-9. FEE FOR FERTILIZER TRAILERS. --In lieu of the
21 registration fee provided for in Section [~~64-6-3 NMSA 1953~~]
22 66-6-3 NMSA 1978, the division shall collect a registration
23 fee of [~~five dollars (\$5.00)~~] seven dollars (\$7.00) for each
24 trailer used on the highways of this state by any commercial
25 fertilizer company solely for the delivery or distribution of

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1 liquid fertilizer to a farmer; provided [~~such~~] the trailer
2 has an empty weight not in excess of three thousand five
3 hundred pounds. "

4 Section 72. Section 66-6-10 NMSA 1978 (being Laws 1978,
5 Chapter 35, Section 345, as amended) is amended to read:

6 "66-6-10. REGISTRATION FEES FOR MANUFACTURED HOMES AND
7 TRAVEL TRAILERS-- DIVISION TO NOTIFY COUNTY ASSESSOR OF
8 MANUFACTURED HOME REGISTRATION. --

9 A. For the registration of each manufactured home,
10 the division shall collect a fee of [~~five dollars (\$5.00)~~]
11 seven dollars (\$7.00).

12 B. The division shall compile and transmit to each
13 county assessor each year a list of the manufactured homes
14 that are registered with the division showing [~~his~~] the
15 assessor's county as the principal location of the
16 manufactured home. The listing shall include all data
17 pertinent to and necessary for the county assessor to value
18 the manufactured homes in accordance with valuation
19 [~~regulations~~] rules promulgated by the property tax division
20 [~~under~~] pursuant to Section 7-36-26 NMSA 1978. The listing
21 required by this subsection shall be transmitted no later
22 than thirty days following the close of the annual
23 registration process and shall be supplemented no less often
24 than every thirty days to provide information to the
25 appropriate county assessors on registrations occurring

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1 throughout the year.

2 C. At the time a person registers [~~his~~] a
3 manufactured home and pays the fee required by this section,
4 [~~he~~] the person shall be notified in writing by the division
5 that the information required by Subsection B of this section
6 will be furnished to the county assessor of the county of the
7 principal location of the manufactured home and that the
8 manufactured home is subject to property taxation under the
9 Property Tax Code. "

10 Section 73. Section 66-6-12 NMSA 1978 (being Laws 1978,
11 Chapter 35, Section 347) is amended to read:

12 "66-6-12. FEES FOR SCHOOL BUSES. --

13 A. Registration fees for school buses used solely
14 for the purpose of transportation of school children and
15 other school activities shall be [~~five dollars (\$5.00)~~] seven
16 dollars (\$7.00) a year.

17 B. The application for registration of a school bus
18 shall be accompanied by the certificate of the director of
19 transportation of the [~~state department of~~] public education
20 department stating that the vehicle is used solely and
21 exclusively as a school bus. [~~No~~] A passenger car shall not
22 be considered [~~as~~] a school bus for the purposes of this
23 section. "

24 Section 74. Section 66-6-23.1 NMSA 1978 (being Laws
25 1999, Chapter 49, Section 8) is amended to read:

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1 "66-6-23. 1. FORMULAIC DISTRIBUTION. --

2 A. The balance from Section 66-6-23 NMSA 1978 shall
3 be transferred or distributed by the state treasurer on or
4 before the last day of the month next after its receipt, as
5 follows:

6 (1) [~~sixty-six and five hundred forty-one~~
7 ~~thousandths~~] seventy-four and sixty-five hundredths percent
8 shall be distributed to the state road fund;

9 (2) [~~ten and thirty-two thousandths~~] seven and
10 six-tenths percent shall be transferred to each county in the
11 proportion, determined by the department in accordance with
12 Subsection B of this section, that the registration fees for
13 vehicles in that county are to the total registration fees
14 for vehicles in all counties;

15 (3) [~~ten and thirty-two thousandths~~] seven and
16 six-tenths percent shall be transferred to the counties, with
17 each county receiving an amount equal to the proportion,
18 determined by the secretary of [~~highway and~~] transportation
19 in accordance with Subsection D of this section, that the
20 mileage of public roads maintained by the county is to the
21 total mileage of public roads maintained by all counties of
22 the state. Amounts distributed to each county in accordance
23 with this paragraph shall be credited to the respective
24 county road fund and be used for the improvement and
25 maintenance of the public roads in the county and to pay for

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1 the acquisition of rights of way and material pits. For this
2 purpose, the board of county commissioners of each of the
3 respective counties shall certify by April 1 of each year to
4 the secretary of [~~highway and~~] transportation the total
5 mileage as of April 1 of that year; provided that in their
6 report, the boards of county commissioners shall identify
7 each of the public roads maintained by them by name, route
8 and location. By agreement and in cooperation with the
9 [~~state highway and~~] department of transportation
10 [~~department~~], the boards of county commissioners of the
11 various counties may use or designate any of the funds
12 provided in this paragraph for [~~any~~] a federal aid program;

13 (4) [~~five and three hundred fifty eight~~
14 ~~thousandths~~] four and six-hundredths percent shall be
15 allocated among the counties in the proportion, determined by
16 the department in accordance with Subsection B of this
17 section, that the registration fees for vehicles in that
18 county are to the total registration fees for vehicles in all
19 counties. The amount allocated to each county shall be
20 transferred to the incorporated municipalities within the
21 county in the proportion, determined by the department of
22 finance and administration in accordance with Subsection C of
23 this section, that the sum of net taxable value, as that term
24 is defined in the Property Tax Code, plus the assessed value,
25 as that term is used in the Oil and Gas Ad Valorem Production

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1 Tax Act and in the Oil and Gas Production Equipment Ad
2 Valorem Tax Act, determined for the incorporated municipality
3 is to the sum of net taxable value plus assessed value
4 determined for all incorporated municipalities within the
5 county. Amounts transferred to incorporated municipalities
6 pursuant to the provisions of this paragraph shall be used
7 for the construction, maintenance and repair of streets
8 within the municipality and for payment of paving assessments
9 against property owned by federal, county or municipal
10 governments. In ~~[any]~~ a county in which there are no
11 incorporated municipalities, the amount allocated pursuant to
12 this paragraph shall be transferred to the county government
13 road fund and used in accordance with the provisions of
14 Paragraph (3) of this subsection; and

15 (5) ~~[eight and thirty seven thousandths]~~ six
16 and nine-hundredths percent shall be allocated among the
17 counties in the proportion, determined by the department of
18 finance and administration in accordance with Subsection C of
19 this section, that the registration fees for vehicles in that
20 county are to the total registration fees for vehicles in all
21 counties. The amount allocated to each county shall be
22 transferred to the county and incorporated municipalities
23 within the county in the proportion, determined by the
24 department of finance and administration in accordance with
25 Subsection B of this section, that the computed taxes due for

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1 the county and each incorporated municipality within the
2 county bear to the total computed taxes due for the county
3 and incorporated municipalities within the county. For the
4 purposes of this paragraph, the term "computed taxes due" for
5 ~~[any]~~ a jurisdiction means the sum of the net taxable value,
6 as that term is defined in the Property Tax Code, plus the
7 assessed value, as that term is used in the Oil and Gas Ad
8 Valorem Production Tax Act and in the Oil and Gas Production
9 Equipment Ad Valorem Tax Act, for that jurisdiction
10 multiplied by an average of the rates for residential and
11 nonresidential property imposed for that jurisdiction
12 pursuant to Subsection B of Section 7-37-7 NMSA 1978.

13 B. To carry out the provisions of this section,
14 during the month of June of each year:

15 (1) the department shall determine and certify
16 to the department of finance and administration the
17 proportions ~~[which]~~ that the department is required to
18 determine pursuant to Subsection A of this section using
19 information for the preceding calendar year on the number of
20 vehicles registered in each county based on the address of
21 the owner or place where the vehicle is principally located,
22 the registration fees for the vehicles registered in each
23 county, the total number of vehicles registered in the state
24 and the total registration fees for all vehicles registered
25 in the state; and

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1 (2) the department of finance and
2 administration shall determine the proportions that the
3 department of finance and administration is required to
4 determine pursuant to [~~Subsection B of this section~~] this
5 subsection based upon the net taxable value, as that term is
6 defined in the Property Tax Code, and the assessed value, as
7 that term is used in the Oil and Gas Ad Valorem Production
8 Tax Act and the Oil and Gas Production Equipment Ad Valorem
9 Tax Act, for the preceding tax year and the tax rates imposed
10 pursuant to Subsection B of Section 7-37-7 NMSA 1978 in the
11 preceding September.

12 C. By June 30 of each year, the department of
13 finance and administration shall determine the appropriate
14 percentage of money to be transferred to each county and
15 municipality for each purpose in accordance with Subsection A
16 of this section based upon the proportions determined by or
17 certified to the department of finance and administration.
18 The percentages determined shall be used to compute the
19 amounts to be transferred to the counties and municipalities
20 during the succeeding fiscal year.

21 D. The board of county commissioners of each of the
22 respective counties shall, by April 1 of every year, certify
23 reports to the secretary of [~~highway and~~] transportation of
24 the total mileage of public roads maintained by each county
25 as of April 1 of every year; provided that in their reports,

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1 the boards of county commissioners shall identify each of the
2 public roads maintained by them by name, route and location.
3 By July 1 of every year, the secretary of [~~highway and~~]
4 transportation shall verify the reports of the counties and
5 revise, if necessary, the total mileage of public roads
6 maintained by each county. The mileage verified by the
7 secretary of [~~highway and~~] transportation shall be the
8 official mileage of public roads maintained by each county.
9 Distribution of amounts to [~~any~~] a county for road purposes
10 shall be made in accordance with this section.

11 E. If a county has not made the required mileage
12 certification pursuant to Section 67-3-28.3 NMSA 1978 by
13 April 1 of any year, the secretary of [~~highway and~~]
14 transportation shall estimate the mileage maintained by those
15 counties for the purpose of making distribution to all
16 counties, and the amount calculated to be distributed each
17 month to those counties not certifying mileage shall be
18 reduced by one-third each month for that fiscal year, and
19 that amount not distributed to those counties shall be
20 distributed equally to all counties that have certified
21 mileages. "

22 Section 75. Section 66-7-413 NMSA 1978 (being Laws
23 1978, Chapter 35, Section 484, as amended by Laws 2003,
24 Chapter 141, Section 4 and by Laws 2003, Chapter 142, Section
25 23 and by Laws 2003, Chapter 359, Section 42 and also by Laws

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1 2003, Chapter 361, Section 1) is amended to read:

2 "66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--
3 SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED
4 HOMES. --

5 A. The department of public safety and local
6 highway authorities may, in their discretion, upon
7 application in writing and good cause being shown, issue a
8 special permit in writing authorizing the applicant to
9 operate or move a vehicle or load of a size or weight
10 exceeding the ~~maximum~~ specified in Sections 66-7-401 through
11 66-7-416 NMSA 1978 on [~~any~~] a highway under the jurisdiction
12 of the state transportation ~~commission~~ or local authorities.
13 Except for the movement of ~~manufactured homes~~, a permit may
14 be granted, in cases of emergency, for the transportation of
15 loads on a certain unit or combination of equipment for a
16 specified period of time not to exceed one year, and the
17 permit shall contain the route to be traversed, the type of
18 load to be transported and any other restrictions or
19 conditions deemed necessary by the body granting the permit.
20 In every other case, the permit shall be issued for a single
21 trip and may designate the route to be traversed and contain
22 any other restrictions or conditions deemed necessary by the
23 body granting the permit. Every permit shall be carried in
24 the vehicle to which it refers and shall be opened for
25 inspection to any peace officer. It is a misdemeanor for

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1 [any] a person to violate [~~any of the conditions~~] a condition
2 or [~~terms~~] term of the special permit.

3 B. The department of public safety shall charge and
4 collect, when the movement consists of [any] a load of a
5 width of twenty feet or greater for a distance of five miles
6 or more, the sum of three hundred dollars (\$300) a day or
7 fraction thereof to defray the cost of state or local police
8 escort. The permit issued and the fee charged shall be based
9 upon the entire movement at one time requiring police escort
10 and not upon the number of vehicles involved.

11 C. The department of public safety shall promulgate
12 [~~regulations~~] rules in accordance with the State Rules Act
13 pertaining to safety practices, liability insurance and
14 equipment for escort vehicles provided by the motor carrier
15 himself and for escort vehicles provided by a private
16 business in this state.

17 (1) [~~If a motor carrier provides his own~~
18 ~~escort vehicles and personnel~~] The department [~~shall not~~
19 ~~charge an escort fee but~~] of public safety shall provide the
20 [~~motor carrier~~] escort personnel with a copy of applicable
21 [~~regulations~~] rules and shall inspect the escort vehicles for
22 the safety equipment required by the [~~regulations~~] rules. If
23 the escort vehicles and personnel meet the requirements set
24 forth in the [~~regulations and if the motor carrier holds a~~
25 ~~valid certificate of public convenience and necessity or~~

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1 ~~permit, as applicable, issued pursuant to Chapter 65, Article~~
2 ~~2-NMSA-1978]~~ rules, the department of public safety shall
3 issue the special permit, but shall not charge an escort fee.
4 If the motor carrier provides its own escort vehicles and
5 personnel, the department of public safety shall require that
6 the motor carrier have a warrant issued by the public
7 regulation commission.

8 ~~[(2) If the escort service is a private~~
9 ~~business, the business shall have applied to the public~~
10 ~~regulation commission for and been issued a permit or~~
11 ~~certificate to operate as a contract or common motor carrier~~
12 ~~pursuant to Chapter 65, Article 2 NMSA 1978. The public~~
13 ~~regulation commission shall supply copies of applicable~~
14 ~~regulations to the business by mail and shall supply~~
15 ~~additional copies upon request. If the escort vehicles and~~
16 ~~personnel meet the requirements set forth in the regulations~~
17 ~~and if the escort service holds a certificate, the special~~
18 ~~permit shall be issued and the department shall not charge an~~
19 ~~escort fee.~~

20 ~~(3)]~~ (2) The movement of vehicles upon the
21 highways of this state requiring a special permit and
22 required to use an escort of the type noted in [Paragraphs
23 ~~(1) and (2)]~~ Paragraph (1) of this subsection is subject to
24 department of public safety authority and inspection at all
25 times.

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1 [~~(4)~~] (3) The [~~state highway and~~] department
2 of transportation [~~department~~] shall conduct engineering
3 investigations and engineering inspections to determine which
4 four-lane highways are safe for the operation or movement of
5 manufactured homes without an escort. After making that
6 determination, the [~~state highway and~~] department of
7 transportation [~~department~~] shall hold public hearings in the
8 area of the state affected by the determination, after which
9 it may adopt [~~regulations~~] rules designating those four-lane
10 highways as being safe for the operation or movement of
11 manufactured homes without an escort. If [~~any~~] a portion of
12 such a four-lane highway lies within the boundaries of a
13 municipality, the [~~state highway and~~] department of
14 transportation [~~department~~], after obtaining the approval of
15 the municipal governing body, shall include such portions in
16 its [~~regulations~~] rules.

17 D. Except for the movement of manufactured homes,
18 special permits may be issued for a single vehicle or
19 combination of vehicles by the department of public safety
20 for a period not to exceed one year for a fee of [~~sixty~~
21 ~~dollars (\$60.00)~~] three hundred dollars (\$300). The permits
22 may allow excessive height, length and width for a vehicle or
23 combination of vehicles or load thereon and may include a
24 provision for excessive weight if [~~the operation is to be~~
25 ~~within the vicinity of a municipality~~] the distance between

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1 the origin and the destination of each single trip is thirty
2 miles or less. Utility service vehicles, operating with
3 special permits pursuant to this subsection, shall be exempt
4 from prohibitions or restrictions relating to hours or days
5 of operation or restrictions on movement because of poor
6 weather conditions.

7 E. Special permits for a single trip for a vehicle
8 or combination of vehicles or load thereon of excessive
9 weight, width, length and height may be issued by the
10 department of public safety for a single vehicle for a fee of
11 [fifteen dollars (\$15.00)] twenty-five dollars (\$25.00) plus
12 the product of four cents (\$.04) for each two thousand pounds
13 in excess of eighty-six thousand four hundred pounds or major
14 fraction thereof multiplied by the number of miles to be
15 traveled by the vehicle or combination of vehicles on the
16 highways of this state.

17 F. If [~~the~~] a vehicle for which a permit is issued
18 [~~under~~] pursuant to this section is a manufactured home, the
19 department of public safety or local highway authority
20 issuing the permit shall furnish the following information to
21 the property tax division of the taxation and revenue
22 department, which shall [~~then~~] forward the information:

23 (1) to the county assessor of [~~any~~] a county
24 from which a manufactured home is being moved, the date the
25 permit was issued, the location being moved from, the

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1 location being moved to if within the same county, the name
2 of the owner of the manufactured home and the identification
3 and registration numbers of the manufactured home;

4 (2) to the county assessor of any county in
5 this state to which a manufactured home is being moved, the
6 date the permit was issued, the location being moved from,
7 the location being moved to, the name of the owner of the
8 manufactured home and the registration and identification
9 numbers of the manufactured home; and

10 (3) to the owner of a manufactured home having
11 a destination in this state, notification that the
12 information required in Paragraphs (1) and (2) of this
13 subsection is being given to the respective county assessors
14 and that manufactured homes are subject to property taxation.

15 G. Except as provided in Subsection H of this
16 section, if the movement of a manufactured home originates in
17 this state, ~~[no]~~ a permit shall not be issued ~~[under]~~
18 pursuant to Subsection F of this section until the owner of
19 the manufactured home or ~~[his]~~ the authorized agent of the
20 owner obtains and presents to the department of public safety
21 proof that a certificate has been issued by the county
22 assessor or treasurer of the county in which the manufactured
23 home movement originates showing that either:

24 (1) all property taxes due or to become due on
25 the manufactured home for the current tax year or any past

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1 tax years have been paid, except for manufactured homes
2 located on an Indian reservation; or

3 (2) [~~no~~] liability for property taxes on the
4 manufactured home [~~exists~~] does not exist for the current tax
5 year or [~~any~~] a past tax [~~years~~] year, except for
6 manufactured homes located on an Indian reservation.

7 H. The movement of a manufactured home from the lot
8 or business location of a manufactured home dealer to its
9 destination designated by an owner-purchaser is not subject
10 to the requirements of Subsection G of this section if the
11 manufactured home movement originates from the lot or
12 business location of the dealer and the manufactured home was
13 part of [~~his~~] the dealer's inventory prior to the sale to the
14 owner-purchaser; however, the movement of a manufactured home
15 by a dealer or [~~his~~] the dealer's authorized agent as a
16 result of a sale or trade-in from a nondealer-owner is
17 subject to the requirements of Subsection G of this section
18 whether the destination is the business location of a dealer
19 or some other destination.

20 I. [~~No~~] A permit shall not be issued [~~under~~]
21 pursuant to this section for movement of a manufactured home
22 whose width exceeds eighteen feet with no more than a six-
23 inch roof overhang on the left side or twelve inches on the
24 right side in addition to the eighteen-foot width of the
25 manufactured home. Manufactured homes exceeding the

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1 limitations of this section shall only be moved on dollies
2 placed on the front and the rear of the structure.

3 J. The secretary of public safety may by
4 [~~regulation~~] rule provide for movers of manufactured homes to
5 self-issue permits for certain sizes of manufactured homes
6 over specific routes [~~however, in no case may~~]. The cost of
7 [~~each~~] a permit shall not be less than [~~fifteen dollars~~
8 ~~(\$15.00)~~] twenty-five dollars (\$25.00).

9 K. The secretary of public safety may provide by
10 [~~regulation~~] rule for dealers of implements of husbandry to
11 self-issue permits for the movement of certain sizes of
12 implements of husbandry from the lot or business location of
13 the dealer over specific routes with specific escort
14 requirements, if necessary, to a destination designated by an
15 owner-purchaser or for purposes of a working demonstration on
16 the property of a proposed owner-purchaser. The department
17 of public safety shall charge a fee for each self-issued
18 permit not to exceed fifteen dollars (\$15.00).

19 L. [~~Any~~] A private motor carrier requesting an
20 oversize or overweight permit shall provide proof of
21 insurance in at least the following amounts:

- 22 (1) bodily injury liability, providing:
23 (a) fifty thousand dollars (\$50,000) for
24 each person; and
25 (b) one hundred thousand dollars

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1 (\$100,000) for each accident; and

2 (2) property damage liability, providing
3 twenty-five thousand dollars (\$25,000) for each accident.

4 M. ~~[Any common]~~ A motor carrier requesting an
5 oversize permit shall produce a copy of a [form "e" or other
6 acceptable] warrant or single state registration receipts as
7 evidence that the [common] motor carrier maintains the
8 insurance minimums prescribed by the public regulation
9 commission.

10 N. The department of public safety may provide by
11 rule the time periods during which a vehicle or load of a
12 size or weight exceeding the maximum specified in Sections
13 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved
14 by a motor carrier on a highway under the jurisdiction of the
15 state transportation commission or local authorities.

16 O. Revenue from fees for special permits
17 authorizing vehicles and loads of excessive size or weight to
18 operate or move upon a highway under the jurisdiction of the
19 state transportation commission or local authorities shall be
20 collected for the department of transportation and
21 transferred to the state road fund."

22 Section 76. Section 66-7-413.4 NMSA 1978 (being Laws
23 2001, Chapter 20, Section 2) is amended to read:

24 "66-7-413.4. PERMITS FOR EXCESSIVE WEIGHT. --

25 A. In addition to the authority granted in Section

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1 66-7-413 NMSA 1978, the motor transportation division of the
2 department of public safety may issue special permits
3 authorizing an increase of up to twenty-five percent in axle
4 weight for liquid hauling tank vehicles whenever the liquid
5 hauling tank vehicles would have to haul less than a full
6 tank under the maximum weights authorized in Section 66-7-409
7 and 66-7-410 NMSA 1978. A special permit under this section
8 may be issued for a single trip or for a year. The fee for
9 the permits shall be thirty-five dollars (\$35.00) for a
10 single-trip permit and one hundred twenty dollars (\$120) for
11 an annual permit. Revenue from the permit fee shall be used
12 to build, maintain, repair or reconstruct the highways and
13 bridges of this state. Revenue from the permit shall be
14 collected for the department of transportation and
15 transferred to the state road fund.

16 B. The special permits authorized by this section
17 shall not be valid for transportation of excessive weights on
18 the interstate system as currently defined in federal law or
19 as that system may be defined in the future. ~~[No]~~ A special
20 permit issued pursuant to this section shall not be valid for
21 gross vehicle weights in excess of eighty-six thousand four
22 hundred pounds or for ~~[any]~~ a combination vehicle.

23 C. If the federal highway administration of the
24 United States department of transportation gives official
25 notice that money will be withheld or that this section

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1 violates the grandfather provision of 23 USCA 127, the
2 secretary may withdraw all special permits and discontinue
3 issuance of all special permits authorized in this section
4 until such time that final determination is made. If the
5 final determination allows the state to issue the special
6 permits without sanction of funds or weight tables, [~~then~~]
7 the secretary shall reissue the special permits previously
8 withdrawn and make the special permits available pursuant to
9 this section. "

10 Section 77. Section 67-3-59.2 NMSA 1978 (being Laws
11 1999 (1st S.S.), Chapter 9, Section 3) is amended to read:

12 "67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--
13 PURPOSE. --

14 A. The "highway infrastructure fund" is created in
15 the state treasury and shall be administered by the
16 department. The fund shall consist of money from various
17 fees and taxes distributed to the fund. Earnings on
18 investment of the fund shall be credited to the fund.
19 Balances in the fund at the end of any fiscal year shall not
20 revert and shall remain in the fund for the purposes
21 authorized in this section.

22 B. Money in the fund shall be used solely for
23 acquisition of rights of way or planning, design,
24 engineering, construction or improvement of state highway
25 projects authorized pursuant to the provisions of Laws 1998,

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1 Chapter 84, [~~and~~] Subsections C through H of Section 1 of
2 Chapter 85 of Laws 1998 and Sections 97 and 98 of this 2003
3 act and is appropriated to the department for expenditure for
4 those purposes.

5 C. The taxes and fees required by law to be
6 distributed to the highway infrastructure fund may be pledged
7 for the payment of state highway bonds issued pursuant to
8 [~~Section~~] Sections 67-3-59.1 and 67-3-59.3 NMSA 1978 for the
9 highway projects authorized in the laws specified in
10 Subsection B of this section. "

11 Section 78. A new section of Chapter 67, Article 3 NMSA
12 1978, Section 67-3-59.3 NMSA 1978, is enacted to read:

13 "67-3-59.3. [NEW MATERIAL] STATE TRANSPORTATION PROJECT
14 BONDS--ISSUANCE--LIMITS--APPROVAL.--

15 A. In order to provide funds to finance state
16 transportation projects, the New Mexico finance authority,
17 when directed by the state transportation commission, is
18 authorized, subject to the limitations of this section, to
19 issue bonds from time to time, payable from:

20 (1) federal funds not otherwise obligated that
21 are paid into the state road fund;

22 (2) proceeds of the collection of additional
23 taxes and fees that are required in this 2003 act to be paid
24 into the state road fund and not otherwise pledged
25 exclusively to the payment of outstanding bonds and

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1 debentures; and

2 (3) taxes and fees required by law to be paid
3 into the highway infrastructure fund.

4 B. Upon authorization of state transportation
5 projects and appropriation of net bond proceeds by the
6 legislature, bonds in the total aggregate principal amount of
7 one billion five hundred eighty-five million dollars
8 (\$1,585,000,000) may be issued by the New Mexico finance
9 authority pursuant to this section for state transportation
10 projects, to be secured by or payable from taxes or fees
11 required by law to be paid into the state road fund, federal
12 funds not otherwise obligated that are paid into the state
13 road fund and taxes or fees required by law to be paid into
14 the highway infrastructure fund.

15 C. The New Mexico finance authority, when directed
16 by the state transportation commission, may issue bonds to
17 refund other bonds issued by or at the direction of the state
18 transportation commission pursuant to this section or Section
19 67-3-59.1 NMSA 1978 by exchange or current or advance
20 refunding.

21 D. In consultation with the state transportation
22 commission, the New Mexico finance authority shall determine
23 all terms, covenants and conditions of the bonds; provided
24 that the project design life of a project meets or exceeds
25 the life of the bond issued for that project, and each series

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1 of bonds shall be sold, executed and delivered in accordance
2 with the provisions of the New Mexico Finance Authority Act.
3 The New Mexico finance authority may enter into interest rate
4 exchange agreements, interest rate swap contracts, insurance
5 agreements, remarketing agreements and any other agreements
6 deemed necessary in connection with the issuance of the bonds
7 without obtaining the approval of such agreements by any
8 agency or board of the state, notwithstanding the provisions
9 of any other law of the state.

10 E. Proceeds of the bonds and amounts on deposit in
11 the state road fund and the highway infrastructure fund may
12 be used to pay expenses incurred in the preparation,
13 administration, issuance and sale of the bonds and, together
14 with the earnings on the proceeds of the bonds, may be used
15 to pay rebate, penalty, interest and other obligations
16 relating to the bonds and the proceeds of the bonds under the
17 Internal Revenue Code of 1986, as amended.

18 F. This section is full authority for the issuance
19 and sale of the bonds, and the bonds shall not be invalid for
20 any irregularity or defect in the proceedings for their
21 issuance and sale and shall be incontestable in the hands of
22 bona fide purchasers or holders of the bond for value.

23 G. The bonds shall be legal investments for a
24 person or board charged with the investment of public funds
25 and may be accepted as security for a deposit of public money

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1 and, with the interest thereon, are exempt from taxation by
2 the state and a political subdivision or agency of the state.

3 H. Any law authorizing the imposition or
4 distribution of taxes or fees paid into the state road fund
5 or the highway infrastructure fund or that affects those
6 taxes and fees shall not be amended or repealed or otherwise
7 directly or indirectly modified so as to impair outstanding
8 bonds secured by a pledge of revenues from those taxes and
9 fees paid into the state road fund or the highway
10 infrastructure fund, unless the bonds have been discharged in
11 full or provisions have been made for a full discharge. In
12 addition, while any bonds issued by the New Mexico finance
13 authority pursuant to the provisions of this section remain
14 outstanding, the powers or duties of the state transportation
15 commission or the authority shall not be diminished or
16 impaired in any manner that will affect adversely the
17 interests and rights of the holder of such bonds.

18 I. In contracting for state transportation projects
19 to be paid in whole or in part with proceeds of bonds
20 authorized by this section, the department shall require that
21 any sand, gravel, caliche or similar material needed for the
22 project shall, if practicable, be mined from state lands.
23 Each contract shall provide that the contractor notify the
24 commissioner of public lands of the need for the material and
25 that, through lease or purchase, the material shall be mined

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1 from state lands if:

2 (1) the material needed is available from
3 state lands in the vicinity of the project;

4 (2) the commissioner determines that the lease
5 or purchase is in the best interest of the state land trust
6 beneficiaries; and

7 (3) the cost to the contractor for the
8 material, including the costs of transportation, is
9 competitive with other available material from nonstate
10 lands.

11 J. Bonds issued pursuant to this section shall be
12 paid solely from federal funds not otherwise obligated and
13 taxes and fees deposited into the state road fund and the
14 highway infrastructure fund and shall not constitute a
15 general obligation of the state.

16 K. For purposes of this section, "state
17 transportation project bonds" includes only those bonds
18 issued pursuant to this section and excludes transportation
19 bonds as defined in Section 67-3-72 NMSA 1978. "

20 Section 79. Section 67-3-65.1 NMSA 1978 (being Laws
21 1983, Chapter 211, Section 40) is amended to read:

22 "67-3-65.1. STATE ROAD FUND DISTRIBUTION. -- The amounts
23 distributed to the state road fund pursuant to [Section]
24 Sections 7-1-6.10, 66-6-23 and 66-6-23.1 NMSA 1978 shall be
25 used for maintenance, construction and improvement of [the

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1 ~~public highways]~~ state transportation projects and to meet
2 federal allotments under the federal-aid road laws, but
3 sufficient money from the state road fund shall be set aside
4 each year by the state treasurer to pay the principal and
5 interest [~~coupons of highway debentures]~~ due each year on
6 state transportation revenue bonds issued to anticipate the
7 collection of this revenue [~~as the principal and interest~~
8 ~~coupons mature~~]. "

9 Section 80. [NEW MATERIAL] APPROPRIATION OF BOND
10 PROCEEDS-- AUTHORIZED TRANSPORTATION PROJECTS. --

11 A. The net proceeds of state transportation project
12 bonds issued by the New Mexico finance authority pursuant to
13 Section 67-3-59.3 NMSA 1978 and Subsection B of this section
14 are appropriated to the department of transportation for the
15 following authorized transportation projects:

16 (1) for the reconstruction of the interchange
17 at the intersection of Coors boulevard and interstate 40 in
18 Albuquerque;

19 (2) for the reconstruction and improvement of
20 interstate 25 to accommodate public transportation elements,
21 including commuter rail from Albuquerque to Santa Fe;

22 (3) for the reconstruction and improvement of
23 United States highway 54 from Tularosa to Santa Rosa;

24 (4) for the reconstruction and improvement of
25 United States highway 64/87 from Raton to Clayton;

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1 (5) for the reconstruction and improvement of
2 United States highway 491 from Tohatchi to Shiprock;

3 (6) for the reconstruction and improvement of
4 United States highway 491 from Shiprock to the Colorado state
5 line;

6 (7) for the reconstruction and improvement of
7 United States highway 62/180 from the Texas state line to
8 Carlsbad;

9 (8) for the reconstruction and improvement of
10 various sections of interstate 40 from Newkirk to Tucumcari;

11 (9) for the reconstruction and improvement of
12 various sections of interstate 40 between Gallup and the
13 Arizona state line;

14 (10) for the reconstruction and improvement of
15 various sections of interstate 40 between Thoreau and Grants;

16 (11) for the reconstruction and improvement of
17 interstate 40 in Albuquerque from Carlisle boulevard to Juan
18 Tabo boulevard;

19 (12) for the reconstruction and improvement of
20 interstate 40 east of Albuquerque from Carnuel to Sedillo;

21 (13) for the reconstruction and improvement of
22 interstate 40 in Albuquerque from Central avenue to Coors
23 boulevard;

24 (14) for the reconstruction and improvement of
25 interstate 40 at various locations from the Pueblo of Laguna

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1 to Mesita;

2 (15) for the reconstruction and improvement of
3 interstate 40 from Canoncito to Rio Puerco;

4 (16) for the reconstruction and improvement of
5 interstate 40 in Moriarty from the west interchange to the
6 east interchange;

7 (17) for the reconstruction and improvement of
8 interstate 10 from Lordsburg to the junction of state highway
9 146;

10 (18) for the reconstruction and improvement to
11 accommodate public transportation elements of interstate 10
12 from the Texas state line to Las Cruces;

13 (19) for the reconstruction and improvement of
14 United States highway 84/285 from Pojoaque to Espanola;

15 (20) for the reconstruction and improvement of
16 state highway 45 in Albuquerque from the junction above
17 interstate 25 north to Central avenue;

18 (21) for the reconstruction and improvement of
19 state highway 128 from state highway 31 to the Texas state
20 line;

21 (22) for the reconstruction and improvement of
22 state highway 11 from Columbus to Deming;

23 (23) for the reconstruction and improvement of
24 United States highway 60 from Abo to Willard;

25 (24) for the reconstruction and improvement of

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- 1 United States highway 56 from Springer east to Abbott;
2 (25) for the reconstruction and improvement of
3 United States highway 380 west of Tatum east to the Texas
4 state line;
5 (26) for the reconstruction and improvement of
6 various sections of United States highway 380 from Capitan to
7 Hondo;
8 (27) for the reconstruction and improvement of
9 various sections of United States highway 64 from the San
10 Juan-Rio Arriba county line to the junction of United States
11 highway 84;
12 (28) for the reconstruction and improvement of
13 state highway 8 from Eunice to United States highway 62;
14 (29) for the reconstruction and improvement of
15 United States highway 285 from Encino to Clines Corners;
16 (30) for the reconstruction and improvement of
17 various sections of United States highway 84 from interstate
18 25 south to Dilia;
19 (31) for the reconstruction and improvement of
20 various sections of state highway 26 between Deming and
21 Hatch;
22 (32) for the reconstruction and improvement of
23 state highway 83 from Lovington to the junction of state
24 highway 132;
25 (33) for the reconstruction and improvement of

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1 state highway 209 from NM 268 to Grady;

2 (34) for the reconstruction and improvement of
3 United States highway 84 from Fort Sumner to Santa Rosa;

4 (35) for the reconstruction and improvement of
5 various sections of United States highway 62/180 from the
6 Texas state line to the Lea-Eddy county line;

7 (36) for the reconstruction and improvement of
8 United States highway 285 from Clines Corners to Lamy;

9 (37) for the reconstruction and improvement of
10 United States highway 180 from Deming to Bayard; and

11 (38) for improvements to the physical
12 facilities of the department of transportation.

13 B. The New Mexico finance authority may issue and
14 sell state transportation project bonds for the state
15 transportation projects authorized in this section when
16 directed by the state transportation commission and when the
17 commission certifies a need for issuance of the bonds for the
18 projects. Within thirty days of commission authorization for
19 a bond sale, the New Mexico finance authority oversight
20 committee and the legislative finance committee shall hold a
21 joint meeting at which the New Mexico finance authority and
22 the department of transportation shall present details of the
23 proposed bond sale to the committees.

24 C. Any unexpended or unencumbered balance after the
25 completion of the projects authorized in this section shall

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1 revert to the state road fund.

2 D. For purposes of this section, "construction",
3 "reconstruction", "rehabilitation" and "improvement" include
4 planning, designing, engineering, constructing and acquiring
5 rights of way.

6 Section 81. [NEW MATERIAL] APPROPRIATION OF BOND
7 PROCEEDS-- AUTHORIZED TRANSPORTATION PROJECTS-- MATCHING
8 FUNDS. --

9 A. The net proceeds of state transportation project
10 bonds issued by the New Mexico finance authority pursuant to
11 Section 67-3-59.3 NMSA 1978 and Subsection B of this section
12 are appropriated to the department of transportation for the
13 following transportation projects subject to the provisions
14 of Subsection B of this section:

15 (1) for the Rio Bravo boulevard extension and
16 interchange construction to access Mesa del Sol in
17 Albuquerque and Bernalillo county; and

18 (2) for the reconstruction of an interchange
19 at interstate 40 and West Central avenue in Albuquerque and
20 Bernalillo county.

21 B. The New Mexico finance authority may issue and
22 sell state transportation project bonds for six million
23 dollars (\$6,000,000) per project for the state transportation
24 projects authorized in this section if:

25 (1) directed by the state transportation

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1 commi ssi on;

2 (2) the state transportation commi ssi on
3 certifies a need for issuance of the bonds for the projects;
4 and

5 (3) prior to issuing bonds, the political
6 subdivision benefiting from the project deposits local
7 matching funds with the state transportation commi ssi on for
8 the authorized project in an amount that, when added to the
9 net proceeds of the bonds, would be adequate to complete the
10 project.

11 C. The amount of the local match for projects
12 authorized by this section shall be determined by a sliding
13 scale based on the political subdivision's financial capacity
14 to pay a portion of the project from local resources pursuant
15 to rules promulgated by the state transportation commi ssi on.

16 Section 82. TEMPORARY PROVISION--OUTSTANDING STATE
17 HIGHWAY REVENUE BONDS. --

18 A. Nothing in this act shall be deemed to impair
19 state highway revenue bonds previously issued by the state
20 transportation commi ssi on and outstanding on the effective
21 date of this act.

22 B. If required by the terms, covenants and
23 provisions of state highway revenue bonds previously issued
24 by the state transportation commi ssi on and outstanding on the
25 effective date of this act, additional bonds issued by the

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1 state transportation commission or the New Mexico finance
2 authority when directed by the state transportation
3 commission pursuant to this act shall contain any required
4 terms, covenants and provisions required to avoid impairment
5 of the previously issued bonds.

6 Section 83. REPEAL. -- Sections 7-9-13.1 and 7-15A-10
7 NMSA 1978 (being Laws 1989, Chapter 262, Section 4 and Laws
8 1988, Chapter 24, Section 9, as amended) are repealed.

9 Section 84. EFFECTIVE DATE. --

10 A. The effective date of the provisions of Sections
11 8, 30, 31, 33 and 55 of this act is March 1, 2004.

12 B. The effective date of the provisions of Sections
13 2, 7, 9 through 14, 19 through 23, 27 through 29, 32, 34
14 through 40, 56 through 64, 75, 76 and 83 of this act is July
15 1, 2004.

16 C. The effective date of the provisions of Sections
17 1, 3 through 6, 24 through 26, 41 through 54 and 65 through
18 74 of this act is July 1, 2005.

19 Section 85. EMERGENCY. -- It is necessary for the public
20 peace, health and safety that this act take effect
21 immediately.